

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

- - -

RICKY JACKSON,	)	
Plaintiff,	)	
vs.	)	CASE NO. 1:15-CV-00989
CITY OF CLEVELAND, et	)	JUDGE CHRISTOPHER A.
al.,	)	BOYKO
Defendants.	)	_____

_____	)	
	)	
KWAME AJAMU, et al.,	)	
Plaintiff,	)	
vs.	)	CASE NO. 1:15-CV-01320
CITY OF CLEVELAND, et	)	JUDGE CHRISTOPHER A.
al.,	)	BOYKO
Defendants.	)	

- - -

Deposition of WILLIAM TELL, SR., a witness  
herein, called by the Defendants for Examination  
pursuant to the Federal Rules of Civil  
Procedure, taken before me, the undersigned,

1 Binnie Purser Martino, a Registered Diplomate  
2 Reporter, Certified Realtime Reporter and Notary  
3 Public in and for the State of Ohio, pursuant to  
4 Notice and agreement of counsel at the law  
5 offices of Roetzel & Andress, LPA, One Cleveland  
6 Center, 10th Floor, 1375 East Ninth Street,  
7 Cleveland, Ohio, on Tuesday, the 14th day of  
8 June, 2016, commencing at 9:15 o'clock p.m.

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1 WILLIAM TELL, SR.  
2 of lawful age, a witness herein, having been  
3 first duly sworn, as hereinafter certified,  
4 deposed and said as follows:

5 EXAMINATION

6 **BY MR. MALLAMAD:**

7 **Q.** Can you state your name, please?

8 **A.** William, last name is Tell, T-e-l-l,  
9 Senior.

10 **Q.** Mr. Tell, my name is Shawn Mallamad, I  
11 represent the City of Cleveland in the lawsuits  
12 brought by Ricky Jackson, Kwame Ajamu and Wiley  
13 Bridgeman.

14 You are here today because you received a  
15 subpoena?

16 **A.** Yes, I did.

17 **Q.** Let me ask you initially, Mr. Tell, have  
18 you ever had your deposition taken before?

19 **A.** Yes.

20 **Q.** So you understand that I am going to be  
21 asking you questions, and that you and I both  
22 need to use words, versus gestures or nods?

23 **A.** That's correct.

24 **Q.** If there is a question I ask you that you  
25 do not understand, please ask me to rephrase it

1 and I will be happy to do so.

2 **A.** Okay.

3 **Q.** Is it fair for me to assume that if you  
4 answer a question, you understood the question?

5 **A.** Yes.

6 **Q.** If you need a break, Mr. Tell, at any time,  
7 as I told the court reporter, just please let us  
8 know, you are not tethered to the chair.

9 The only other caveat is if there is a  
10 question that has been posed, you need to answer  
11 it first, before we let you take a break.

12 Did you review any documents before you  
13 came today to assist you in preparation for your  
14 deposition?

15 **A.** No.

16 **Q.** Are you on any medication, Mr. Tell, that  
17 would affect your ability to remember or testify  
18 truthfully?

19 **A.** No.

20 **Q.** Do you understand that this is the only  
21 opportunity that we have to ask you questions  
22 about what knowledge you may have about the  
23 claims in this case, prior to the trial of this  
24 matter?

25 **A.** I understand.



1 Q. Do you have any memory issues --

2 A. No.

3 Q. -- that would affect your ability to recall  
4 things in your career?

5 A. No.

6 Q. I assume by your prior answer, you have not  
7 read the civil complaints in this case?

8 A. No.

9 Q. Nor any of the discovery responses?

10 A. None.

11 Q. Can you tell me your present marital  
12 status?

13 A. I am divorced.

14 Q. What is the highest level of education you  
15 achieved?

16 A. High school.

17 Q. And where was that?

18 A. East Technical High School.

19 Q. And when did you graduate?

20 A. 1965.

21 Q. I know that you were a police officer for a  
22 long time, and I assume you have no criminal  
23 convictions of any sort?

24 A. None.

25 Q. Is that correct?

1     **A.**     Right.

2     **Q.**     What is your date of birth?

3     **A.**     10/23/1946.

4     **Q.**     Have you ever been a party to a lawsuit  
5     before where you have sued someone or have been  
6     sued by somebody?

7     **A.**     Yeah.

8     **Q.**     Can you tell me how many?

9     **A.**     Automobile accidents. How many? I  
10    couldn't tell. I worked in the police  
11    department, we had accidents in police cars, you  
12    know, fender benders over the years. I am 69  
13    years old. I did a lot of driving in my day.

14   **Q.**     Aside from motor-vehicle accident lawsuits,  
15    have you been a party to a lawsuit where you  
16    have sued or been sued somebody?

17   **A.**     No.

18   **Q.**     Did you serve in the military?

19   **A.**     No.

20   **Q.**     Mr. Tell, I know that you had a long career  
21    with the City of Cleveland. I would like to  
22    walk you through that career right now, if we  
23    can do that.

24   **A.**     Okay.

25   **Q.**     Tell me when you --

1     **A.**     I started October 1969 as a patrol officer.  
2     I worked in patrol from 1969 to 1971 in the  
3     Fourth District of the Cleveland Police  
4     Department.

5             1971 to 1980, I was detective for the City  
6     of Cleveland Auto Theft Unit.

7             1980 to 1983, I was a Sergeant, I was  
8     assigned to the First District -- as a matter of  
9     fact, I was the first minority ever assigned to  
10    the First District. There I was assigned to the  
11   Fourth District patrol. I was head of the Vice  
12   Squad in the Fourth District.

13            And 1983 to 1991, I was Lieutenant. I was  
14   complaint investigation, Fourth District patrol,  
15   Fifth District patrol, Fourth District Detective  
16   Chief, Fifth District Detective Chief; and 1991  
17   to 2001, I was commander of the Fifth District  
18   and of the Fourth -- Sixth District, I am sorry,  
19   Sixth District.

20            1991 until 2014, I was Chief of Police of  
21   Utilities for the City of Cleveland.

22     **Q.**     You mean 2001?

23     **A.**     I am sorry, 2001.

24     **Q.**     Okay. Let me -- does that conclude your  
25   employment?

1     **A.**     Yes.

2     **Q.**     Have you worked since 2014?

3     **A.**     No.

4     **Q.**     What did you do just briefly between high  
5     school and when you began at the police  
6     department in 1969?

7     **A.**     I worked for Republic Steel, McDonald's  
8     restaurant and TRW, Tapco Division.

9     **Q.**     Mr. Tell, let me go back to the various  
10    stages in your career with the City of  
11    Cleveland. When you were a patrol officer  
12    between '69 and '71, who were your supervisors?

13   **A.**     One was -- see, we were supervised by  
14    Sergeants. They come and go. I can probably  
15    give you a name of the Sergeant. Vilks, V as in  
16    Victor, i-l-k.

17   **Q.**     Sergeant Vilks?

18   **A.**     Um-hum.

19   **Q.**     Any other supervisors that you can recall  
20    from your patrol?

21   **A.**     Gabaline, G-a-b-a-l-i-n-e. Sergeant  
22    Gabaline. Sergeant Pope.

23   **Q.**     P-o-p-e.

24   **A.**     Lieutenant Caroselli. That is about all.

25   **Q.**     Who was the Commander of the Fourth

1 District?

2 **A.** It wasn't a Commander at that time. It was  
3 called Deputy Chief.

4 **Q.** Who was the Deputy Chief that you answered  
5 to?

6 **A.** Smith, Smith. I answered to Sergeants.

7 **Q.** Right.

8 **A.** He was just Commander of the district,  
9 Deputy Chief of the district.

10 **Q.** So from '71 to 1980, you were a detective  
11 in the Auto Theft Unit, correct?

12 **A.** Yes.

13 **Q.** Just to be clear, your rank is still patrol  
14 officer?

15 **A.** That's correct.

16 **Q.** Mr. Tell, if we can, it is easier for the  
17 court reporter if I can finish my question and I  
18 will let you finish your answer. Normally we  
19 talk over each other and that is fine, but we  
20 are trying to create a transcript here.

21 **A.** All right.

22 **Q.** When you were a detective in the Auto Theft  
23 Unit, was that a citywide unit?

24 **A.** Yes, it was.

25 **Q.** Who were your supervisors during that nine

1 year period?

2 **A.** Sergeant Dierker, D-i-e-r-k-e-r, Sergeant  
3 Dierker was my supervisor.

4 **Q.** All nine years?

5 **A.** Yeah.

6 **Q.** And was there someone above Sergeant  
7 Dierker that oversaw the Auto Theft Unit?

8 **A.** No.

9 **Q.** Then from '80 to '83, you were promoted to  
10 Sergeant in 1980, correct?

11 **A.** Right.

12 **Q.** Then it sounds like for that three year  
13 period, three or four year period, from '80 to  
14 '83, you were Sergeant in both the First and  
15 Fourth District?

16 **A.** And the Fifth District.

17 **Q.** Can you tell me who your supervisors were  
18 during those three assignments?

19 **A.** In the Fourth District, I worked for the  
20 deputy -- I worked for the deputy, the  
21 inspector, Inspector Balaga, B-a-l-a-g-a,  
22 Balaga. I was Vice Sergeant. I worked for him.

23 On patrol, Sergeant -- there are so many  
24 people I worked for over the years. I can't  
25 remember so many people I worked for over the

1 years.

2 Q. If you can't recall, it is okay to tell me  
3 you can't recall. I just want to know what you  
4 can recall.

5 How about when you were a Sergeant -- it  
6 was also the First District during that period  
7 of time?

8 A. Yeah.

9 Q. Any supervisors in the First you can  
10 recall?

11 A. I can't recall those. It was my first  
12 experience at that.

13 Q. Any supervisors in the Fifth District you  
14 can recall during that period of 1980 to '83?

15 A. No.

16 Q. What you can recall is that when you were  
17 assigned to the Vice Unit of the Fourth  
18 District, it was Inspector Balaga?

19 A. That's correct.

20 Q. Then from '83 to '91, you said you were  
21 promoted to Lieutenant in '83?

22 A. Yes.

23 Q. And then you were Lieutenant in the  
24 Complaint Investigation Unit?

25 A. Yes.

1 Q. And that was in the Fourth District?

2 A. No, that was citywide.

3 Q. That was citywide?

4 A. That was citywide.

5 Q. Tell me what that job involved.

6 A. We investigated minor misdemeanor  
7 complaints against police officers.

8 Q. How long did you do that job?

9 A. About a year.

10 Q. Who was your supervisor?

11 A. Captain Ralph Burk, B-u-r-k.

12 Q. And from there you went to the Fourth  
13 District?

14 A. Yes.

15 Q. As a patrol?

16 A. Patrol Lieutenant, and then I went on to  
17 the Lieutenant in charge of the Detective  
18 Bureau.

19 Q. In the Fourth?

20 A. Yes.

21 Q. So when you were initially a Lieutenant in  
22 the Fourth District, who was your supervisor?

23 A. Captain -- Captain was over me, I was a  
24 Lieutenant. Captain Steele, I think it was. I  
25 am not sure. I think it was Captain Steele.



1     **Q.**     Steele?

2     **A.**     Um-hum.

3     **Q.**     And at what point during that '83 to '91  
4     period did you become a Lieutenant that headed  
5     up the Fourth District Detective Bureau?

6     **A.**     I did that under Inspector Balaga. You  
7     stay there and then he saw what I was, and then  
8     he moved me. I can't tell you what year it was.  
9     That is what I did.

10    **Q.**     How many years were you the Lieutenant in  
11    charge of the Fourth District Detective Bureau?

12    **A.**     Not years. About six, seven months.

13    **Q.**     And then what did you --

14    **A.**     I went to the Fifth District.

15    **Q.**     Where you were a street Lieutenant, patrol  
16    Lieutenant?

17    **A.**     No. I was -- yeah, I was patrol  
18    Lieutenant, then I went to the Detective Bureau,  
19    they had a Detective Bureau there also.

20    **Q.**     In the Fifth?

21    **A.**     Yes.

22    **Q.**     Who was your supervisor when you were a  
23    patrol Lieutenant?

24    **A.**     I think Lieutenant James.

25    **Q.**     How about when you were the Lieutenant in

1 charge of the Fifth District Detective Bureau?

2 **A.** I was under Commander Stanley.

3 **Q.** How long were you the Lieutenant in charge  
4 of the Fifth District Detective Bureau?

5 **A.** About a year.

6 **Q.** And then where did you go after --

7 **A.** Then also I had Commander Jackson also,  
8 that is the last person there when I was in the  
9 Detective Bureau.

10 **Q.** We are talking about the period of '83 to  
11 '91. Were you the Lieutenant in charge of the  
12 Fifth District Detective Bureau at the end of  
13 that period of time?

14 **A.** Yes.

15 **Q.** I am sorry, I think I asked you. You said  
16 you held that position for about one year?

17 **A.** Yes.

18 **Q.** Then you went on to become the Fifth  
19 District Commander?

20 **A.** Commander, that's correct.

21 **Q.** And also the Sixth District Commander  
22 during the period of '91 to 2001?

23 **A.** Yes, Fifth District first and Sixth  
24 District second.

25 **Q.** Can you break up that ten year period of

1 time as to when you --

2 **A.** About five in each.

3 **Q.** And who did you report to when you were a  
4 Commander?

5 **A.** I reported to the Chief.

6 **Q.** Who were the Chiefs of Police during that  
7 ten year period that you reported to?

8 **A.** Rocky Polottro was the Chief of Police at  
9 one time and Chief Hanton, H-a-n-t-o-n. That  
10 was it.

11 **Q.** And did you retire from the Division of  
12 Police in 2001?

13 **A.** Yes, I did.

14 **Q.** And then you became the --

15 **A.** Chief of Police of Utilities for the City  
16 of Cleveland.

17 **Q.** That is the Department of Public Utilities?

18 **A.** That's correct.

19 **Q.** And you held that for --

20 **A.** Fourteen years.

21 **Q.** What caused you to stop being the Chief of  
22 Police of the Department of Public Utilities?

23 **A.** I was fired. That is in litigation in  
24 court at this time.

25 **Q.** I am going to show you a couple of things

1 here, Mr. Tell.

2 (Thereupon, Defendant's Exhibit 1 to  
3 the W. Tell deposition was marked for  
4 purposes of identification.)

5 **BY MR. MALLAMAD:**

6 **Q.** Take your time, let me pass these out to  
7 everybody. I am showing you what has been  
8 marked as Defendant's Exhibit 1.

9 **A.** I am familiar with it. I am familiar with  
10 it.

11 **Q.** Let me let the attorneys have a chance to  
12 look at it. This is a July 10, 2013,  
13 correspondence to you from --

14 **A.** Paul Bender.

15 **Q.** -- Paul Bender, the Director of the  
16 Department of Public Utilities?

17 **A.** Um-hum.

18 **Q.** You have to say yes or no for the court  
19 reporter.

20 **A.** Yes, yes.

21 **Q.** This is the correspondence that informed  
22 you that your employment was being terminated?

23 **A.** That's correct.

24 **Q.** And after your employment was terminated,  
25 did you appeal that termination to the Civil

1 Service Commission?

2 **A.** Yes, I did.

3 **Q.** And what was the result of that appeal?

4 **A.** Denied.

5 **Q.** After it was denied, did you commence a  
6 lawsuit in the Cuyahoga County Common Pleas  
7 Court in which you appealed the denial of the  
8 Civil Service Commission's decision?

9 **A.** That's correct.

10 (Thereupon, Defendant's Exhibit 2 to  
11 the W. Tell deposition was marked for  
12 purposes of identification.)

13 **BY MR. MALLAMAD:**

14 **Q.** Let me show you what has been marked as  
15 Defendant's Exhibit 2. Just give me a second to  
16 pass this out to the other attorneys here.

17 Mr. Tell, this is a document that I printed  
18 off of the Cuyahoga --

19 **A.** Website.

20 **Q.** -- County Clerk of Courts' website. It is  
21 captioned William Tell versus the City of  
22 Cleveland. Is this the lawsuit that you filed  
23 relative to the Civil Service Commission's  
24 decision to uphold your termination?

25 **A.** Yes.

1 Q. And that case, according to the docket, is  
2 still pending?

3 A. That's correct.

4 Q. Mr. Tell, during your career with the  
5 Division of Police, you never worked in the  
6 Homicide Unit; is that correct?

7 A. I worked on special cold cases at one time  
8 for the City of Cleveland Homicide Unit.

9 Q. When was that?

10 A. As an auto theft detective during that  
11 time, auto theft detective.

12 Q. You were an auto theft detective between  
13 '71 and 1980?

14 A. Yes.

15 Q. And when during that period of time did you  
16 work cold cases for the Homicide Unit?

17 A. '80, 1980.

18 Q. At the end of your term of assignment with  
19 the Auto Theft Unit?

20 A. Yes.

21 Q. And how long, for the entire year?

22 A. No, no, we worked months. They gave you a  
23 case, we worked about a month, month and a half,  
24 trying to clean up some cold cases that they  
25 had.

1 Q. And what were the cases you worked on?

2 A. A couple of murder cases where a kid was  
3 killed out in the Lee-Harvard area.

4 Q. Do you remember the name of the victim?

5 A. No, I don't.

6 Q. How many cases did you work on?

7 A. One.

8 Q. Just that one case?

9 A. Um-hum.

10 Q. You have to say yes or no.

11 A. Yes.

12 Q. What work did you do on that case?

13 A. We interviewed witnesses, tried to locate  
14 witnesses that could give information about the  
15 murder.

16 Q. Aside from that one month period of time  
17 where you worked one cold case for the Homicide  
18 Unit in 1980, did you ever work in any capacity  
19 in the Homicide Unit?

20 A. No.

21 Q. The cold case that you worked on in 1980,  
22 was that case ever prosecuted?

23 A. I never found any information on it.

24 Q. And because you never worked in the  
25 Homicide Unit, other than this one month period

1 of time, it is a correct statement that you  
2 never supervised homicide detectives in your  
3 career?

4 **A.** No.

5 **Q.** That's correct?

6 **A.** That's correct.

7 **Q.** I am going to go back to the beginning of  
8 your career again, Mr. Tell.

9 You, I assume, took a Civil Service exam to  
10 become a police officer?

11 **A.** That's correct.

12 **Q.** And then as part of your application, were  
13 you also interviewed?

14 **A.** Yes.

15 **Q.** And then when did you begin the police  
16 academy?

17 **A.** October 1969.

18 **Q.** And how long was the academy back then?

19 **A.** Three months.

20 **Q.** Where was the academy in 1969?

21 **A.** On Carnegie Avenue, just adjacent to  
22 Central Cadillac, the building adjacent to  
23 Central Cadillac. I can't tell you the address.  
24 It is across from the music union there, about  
25 22nd Street.



1     **Q.**     What were the subjects of your training  
2     while you were in the academy?

3     **A.**     We went through traffic laws, through Ohio  
4     Criminal Code, first aid, firearm training,  
5     community relations. That is about it.

6     **Q.**     Anything else you can recall?

7     **A.**     No.

8     **Q.**     Were you tested during the academy?

9     **A.**     Yes.

10    **Q.**     And in what areas were you tested on?

11    **A.**     Those areas that I just spoke of and others  
12    that I can't remember.

13    **Q.**     Following the academy, did you have any  
14    in-service training?

15    **A.**     Not that much, if any, until later in my  
16    career. Out of the police academy, none.

17    **Q.**     After you became a police officer, did you  
18    have annual retraining or in-service training  
19    regarding the use of deadly force?

20    **A.**     At that time, it wasn't called deadly  
21    force. We just had requalifications for firearm  
22    training.

23    **Q.**     Were there also written tests you had to  
24    take, as far as that firearms requalification?

25    **A.**     Not at that time.

1 Q. Well, when did that start?

2 A. It probably started in the '80s and '90s.

3 Q. I guess we will just look at the first ten  
4 years of your career. Was there any in-service  
5 training that you attended for that ten year  
6 period, other than the requalification of your  
7 firearms?

8 A. No.

9 Q. When do you recall undergoing your first  
10 in-service as a police officer, besides the  
11 firearms?

12 A. In the late '70s.

13 Q. And what was the subject area of that  
14 in-service training?

15 A. We would go for first aid and that was  
16 about it.

17 Q. Were there others you just can't recall or  
18 was that the only one that you attended?

19 A. I can't recall any more of them.

20 Q. How about in the '80s, did you attend any  
21 in-service training?

22 A. Yeah, we started with like community  
23 relations training then, it was big. So we  
24 would go through community relations training.

25 Q. Anything else in the '80s, besides

1 community relations in-service training?

2 **A.** Training with the defibrillator, first aid  
3 training. That was about it.

4 **Q.** How about the 1990s, what in-service  
5 training did you undergo?

6 **A.** Oh, we went through community policing,  
7 first aid, range, pursuit driving. That was  
8 about it.

9 **Q.** Did you have a field training officer when  
10 you first became a patrol officer with the  
11 Division of Police?

12 **A.** Well, at that time they didn't call them  
13 field training officer, they just put me with  
14 two officers, a senior officer on a car, and  
15 they showed me what to do.

16 **Q.** When you became a detective in the Auto  
17 Theft Unit, how did you learn to do that job?

18 **A.** Same way, put you with two senior officers  
19 and they basically showed you what to do.

20 **Q.** Is the Auto Theft Unit the only specialized  
21 unit that you worked with in your career at the  
22 Division of Police?

23 **A.** The only one.

24 **Q.** Do you recall who the senior officers were  
25 in the Auto Theft Unit that showed you the

1 ropes?

2 **A.** Walziki, last name Walziki, W-a-l-z-i-k-i,  
3 and Vavarina, V-a-v-a-r-i-n-a, Vavarina.

4 **Q.** What do you recall about what they taught  
5 you about how to be an auto theft detective?

6 **A.** Well, they taught you the interview  
7 process, how to recognize stolen cars, how to  
8 take cases to court, Grand Jury and basically  
9 that was it.

10 **Q.** Did you ever work with Joe Paskvan in the  
11 Auto Theft Unit?

12 **A.** No, he was after me.

13 **Q.** Mr. Tell, when you -- beginning with your  
14 academy training and then when you first became  
15 a patrol officer, were you given a book of  
16 general police orders?

17 **A.** Yes.

18 **Q.** And were you also given the manual of rules  
19 and regulations for the Division of Police in  
20 the academy?

21 **A.** Yes.

22 **Q.** And after you began working as a patrol  
23 officer, were you provided with general police  
24 orders as they were promulgated by the Division  
25 of Police?

1     **A.**     No.   And I will tell you why.

2             They came off of a teletype, and officers  
3     who wanted to be promoted would always steal  
4     them before other people get them.   They were  
5     far and few between.

6             As a matter of fact, the only time you  
7     actually got them is when you started to pursue  
8     promotions and then you would try to acquire  
9     them by hook or crook.

10            Like now, they pass them out.   But in those  
11    days, they came off of a teletype and if you  
12    wasn't in the office that day, you didn't get  
13    them.

14    **Q.**     Were you required to maintain your own  
15    personal book of general police orders as a  
16    police officer?

17    **A.**     You were required, but it was impossible to  
18    do.

19    **Q.**     Because the GPOs were sometimes stolen?

20    **A.**     Yes.   Hoarded, hoarded.

21    **Q.**     And was there a general police order book  
22    that was maintained at each district where you  
23    worked?

24    **A.**     Yes.

25    **Q.**     I assume in the Commander or Sergeant's

1 office?

2 **A.** Yes.

3 **Q.** And that was always kept up to date,  
4 though; is that correct?

5 **A.** Yes.

6 **Q.** Are general police orders the way in which  
7 you learned about any changes in the law that  
8 would affect your job?

9 **A.** Yes.

10 **Q.** In the time that you were a police officer  
11 from the Division of Police, is it a fair  
12 statement that the written materials that you  
13 received, general police orders, the manuals,  
14 departmental notices, instructed you to act in  
15 accordance with the Constitution and the laws of  
16 the State of Ohio?

17 **MS. WANG:** Objection, vague,  
18 ambiguous.

19 **THE WITNESS:** Yeah.

20 **BY MR. MALLAMAD:**

21 **Q.** Were you ever trained as a police officer  
22 by the Division of Police to act contrary to the  
23 Constitution or any state law?

24 **MR. GILBERT:** Objection.

25 **THE WITNESS:** No.

1     **BY MR. MALLAMAD:**

2     **Q.**    Is it a fair statement that you never  
3     received any written material from the Division  
4     of Police that instructed you to act contrary to  
5     the Constitution or state law?

6     **A.**    I didn't.

7     **Q.**    When you were working with senior officers,  
8     versus patrol officer then as you said in the  
9     Auto Theft Unit, did any of those senior  
10    officers train you to act contrary to the  
11    Constitution or any state law?

12    **A.**    No.

13    **Q.**    Did you ever serve as an instructor in the  
14    police academy?

15    **A.**    No. Oh, I was a monitor in the police  
16    academy under Mayor Michael White, to see that  
17    minority employees received a fair shake in the  
18    police academy. I was sent there by State  
19    Director Reggie Turner.

20    **Q.**    Was this a full-time assignment, while the  
21    academy was in the session?

22    **A.**    That's correct.

23    **Q.**    Was that for just one academy class?

24    **A.**    Just one academy class.

25    **Q.**    And when was that?

1     **A.**     Between -- I was a Sergeant at that time,  
2     in the '80s, back in the '80s.

3     **Q.**     If you can just briefly tell me what that  
4     job involved.

5     **A.**     I had to monitor, I had to make sure that  
6     all of the minority cadets had their paperwork  
7     and were ready, I had to monitor classes to see  
8     that they weren't being mistreated by the  
9     instructors.

10           Basically I was there to assist them in any  
11     problems they had in the police academy, to make  
12     sure they received a fair shake and they could  
13     graduate out of the academy.

14     **Q.**     During the period of time where you served  
15     as a monitor, did you find any conduct by  
16     instructors that you felt was inappropriate?

17     **A.**     None.

18     **Q.**     Did you ever receive a demotion while you  
19     were a member of the Division of Police?

20     **A.**     Never.

21     **Q.**     Did you ever receive any commendations?

22     **A.**     Many.

23     **Q.**     Can you tell us what they were?

24     **A.**     I received the Medal of Heroism, I received  
25     many community awards for my work in the



1 community. Those are the type of awards that I  
2 got.

3 Q. What was the Medal of Heroism for?

4 A. I stopped an individual from killing a man  
5 on East 52nd and White.

6 Q. When was that?

7 A. That was during the time I was a Commander,  
8 between 19 -- about 1996, I think it was.

9 Q. You just came upon the incident?

10 A. Yes.

11 Q. Really? By yourself?

12 A. Yes. And I disarmed two individuals in the  
13 street that were going to kill each other.

14 Q. Were you ever disciplined while a member of  
15 the Division of Police?

16 A. No.

17 Q. During the period of time that you were a  
18 Sergeant all the way through the period of time  
19 that you served as a Commander, was part of your  
20 job to teach more junior officers about how to  
21 do their job?

22 A. You could say yes.

23 Q. Can you tell me any of the areas where you  
24 provided instruction to more junior officers  
25 about the job?

1     **A.**     Well, what I would do as a Commander, when  
2     we get new policemen that come in, I would call  
3     them in my office. Mind you, they are working  
4     under, at these times, field training officers,  
5     certified field training officers, and I want to  
6     find out if they knew anything about police  
7     work, and if they were familiar with the area.

8             So I would call a kid in cold, and tell him  
9     that my office had been broken into, and I  
10    wanted him to make a police report for me. Then  
11    I would see how he would format the information,  
12    ask me questions.

13            And sometimes I would tell them, you get  
14    stopped by someone and they ask you directions  
15    how to get somewhere, can you tell them how to  
16    get there? I want to make sure these kids, if  
17    they are out on the streets and something  
18    happened, they can tell radio where they are at.  
19    These are the type of things that I did as a  
20    Commander to make sure that these people stayed  
21    safe and did their jobs.

22    **Q.**     How about when you were a Lieutenant or  
23    Sergeant, did you provide training or  
24    instruction to junior officers in other aspects  
25    of the job?

1     **A.**     Yes, the main thing is that you would check  
2     their work. If you saw a kid had a problem, you  
3     would kind of work with his problem to find if  
4     you could solve it. Problems like family  
5     problems, problems with different police  
6     officers on a shift, act like a buffer and quell  
7     the problems that they had.

8     **Q.**     How about, for instance, investigative  
9     techniques, did you ever pass on to the more  
10    junior officers your knowledge about  
11    investigative techniques?

12   **A.**     Yes.

13   **Q.**     Is it a fair statement, Mr. Tell, that from  
14    being a Sergeant all the way through Commander,  
15    you always instructed junior officers to act in  
16    accordance with the Constitution and state laws?

17   **A.**     Yes.

18   **Q.**     You never trained or instructed any junior  
19    officer to violate the Constitution or any state  
20    law?

21   **A.**     No. I have seen some do it, though.

22   **Q.**     I will ask about that in a second. Let me  
23    just ask you, did you ever provide written  
24    materials to more junior officers, whether they  
25    be general police orders or any other type of

1 document that instructed or trained them to act  
2 contrary to the Constitution or any state law?

3 **A.** No.

4 **Q.** Now, you just said that you saw more senior  
5 officers instruct junior officers to engage in  
6 conduct that violated the Constitution?

7 **A.** Yes.

8 **Q.** Tell me about each of those occasions.

9 **A.** Once I saw a police officer from Shaker  
10 Heights on the corner of Milverton and Chagrin.  
11 I was a patrol officer at that time, and the  
12 police officer was shot, a Shaker Heights police  
13 officer, on the corner of Milverton and Chagrin.  
14 When we arrived on the scene, I was in the  
15 Fourth District, I worked with a guy by the name  
16 of Wayne Ayere, A-y-e-r-e, we responded.

17 We got there and found a black male laying  
18 on the corner, on the east -- the northeast  
19 corner of Milverton and Chagrin. He had been  
20 shot by one of -- another Shaker Heights police  
21 officer.

22 At this time, we came up, and the senior  
23 officers that was there started to stomp the  
24 man, kick him, beat him, a Lieutenant,  
25 Lieutenant Troyon, T-r-o-y-o-n. He responded to

1 the scene, and the senior officer instructed him  
2 to either get involved, go away or direct  
3 traffic. He came from the traffic unit. He  
4 immediately started to direct traffic as they  
5 stomped and beat this individual.

6 Standing there at the same time was a  
7 Shaker Heights police officer who was crying  
8 about his partner being shot, and the Cleveland  
9 policeman told him, "You going to stand there  
10 and cry? We show you what we do to somebody who  
11 shoot a police." That is when they started  
12 stomping the guy.

13 They laid a stretcher on the ground beside  
14 him and told him, if he wants to go to the  
15 hospital, to get on the stretcher and get there  
16 his own self. This guy crawled and tried to get  
17 on the stretcher. At that time, we had a wagon  
18 that would take people to the hospital.

19 So the ambulance drivers, Cleveland police  
20 officers, put him on the stretcher, put him in  
21 the ambulance, drove two houses down to  
22 Milverton, one guy got out, got in the car, he  
23 went stomping the guy, they drove off into the  
24 distance.

25 Q. The individual who was being mistreated was

1 a civilian?

2 **A.** Yes.

3 **Q.** And the officers who were mistreating him  
4 were Cleveland police officers?

5 **A.** That's right.

6 **Q.** They were patrol officers?

7 **A.** What?

8 **Q.** They were patrol officers?

9 **A.** Yes.

10 **Q.** And did they do this in front of a  
11 supervising Cleveland police officer?

12 **A.** Lieutenant.

13 **Q.** And you were a patrol officer at the time?

14 **A.** Yeah.

15 **Q.** This was 1970 --

16 **A.** '69, '71, '71, somewhere around in there.  
17 '70, '71.

18 **Q.** What did you do after witnessing this?

19 **A.** I did nothing.

20 **Q.** What did you do?

21 **A.** Nothing. Nothing. I was afraid.

22 **Q.** You didn't report it to your Sergeant?

23 **A.** No.

24 **Q.** Why not?

25 **A.** Because everybody else there -- there was

1 more than me. There was seven, eight guys  
2 there. And the Lieutenant was there. I had to  
3 report it to the Sergeant. The Lieutenant was  
4 on the scene, Lieutenant Troyon.

5 Q. Did you report it to internal affairs?

6 A. No.

7 Q. Why not?

8 A. I was afraid.

9 Q. What were you afraid of?

10 A. If you did something like that you were  
11 ostracized by the police that was on the shift.  
12 I seen it happen to a friend of mine, who was a  
13 police officer, and you didn't want to go  
14 through that process as a young police officer.

15 I had a family, just got on the Cleveland  
16 Police Department, best job I ever had. I don't  
17 want to lose my job.

18 Q. Did you contact the FBI?

19 A. No.

20 Q. Why didn't you contact the FBI?

21 A. I just didn't do it. My friend, Stanley,  
22 he went to a bank robbery on 116th and Buckeye,  
23 and during the robbery, a guy abused the bank  
24 robber and he was hurt, telling the guy, you  
25 know, you might be able to get somebody -- a kid

1 named William Stanley was his name, he went on  
2 to be Deputy Chief of the Cleveland Police  
3 Department. He was ostracized by the police on  
4 the platoon, just by speaking to this guy who  
5 had robbed a bank.

6 Another incident I saw, a guy by the name  
7 of Pat Woods, I was a Sergeant at that time,  
8 this was between '80 and '83, when I was a  
9 Sergeant, and Pat Woods had a knife that he  
10 played with, the blade would flick back and  
11 forth, up and down, it wouldn't stay rigid.

12 Pat responded one night, he was chasing a  
13 female and a boyfriend, who was out celebrating  
14 a birthday, they were chasing them.

15 They went down Hough, and somehow the car  
16 turned around and came back and scraped the  
17 police car.

18 Well, the boyfriend jumped out of the car  
19 and ran, the girl tried to get out, but she was  
20 drunk. He grabbed her by the hair, he slipped  
21 in the mud, his gun went off and he shot the  
22 girl. I came on the scene, I saw it, and he  
23 immediately took out the knife and said, "Hey,  
24 she tried to pull a knife on me."

25 That is B.S. Because I saw the knife with



1     this guy during his tenure. And I reported it  
2     to the internal affairs, I am not scared now  
3     because I am on the job now, I reported it to  
4     internal affairs.

5     **Q.**     Okay.

6     **A.**     And it was covered up. They said the girl  
7     was drunk, she might have had the knife, she  
8     said she had the knife, but it was a coverup.

9             I saw the knife with this guy. But by the  
10     girl being drunk, we couldn't do anything. I  
11     went to Judge Lloyd O. Brown who instructed me  
12     to go to internal affairs. That is what I did.

13            A kid worked for me by the name of Ron  
14     Turner, he worked for me. This guy took so much  
15     stuff on the Cleveland Police Department, it was  
16     a shame what they did. The supervisors did him  
17     in because he was the real police, he did his  
18     job. They would steal his evidence, they would  
19     throw his cases out. I had to give him a  
20     property book that he had, to keep them from  
21     stealing evidence from him. It was kind of  
22     rough for him.

23     **Q.**     Let me ask you about the bank robber  
24     matter.

25     **A.**     Yeah.

1     **Q.**     I think we were talking about occasions  
2     where you said you saw supervisory police  
3     officers instructing or training junior officers  
4     to violate the Constitution.

5             That is what I thought we were talking  
6     about. Let me just go back and in that context.  
7     The bank robbery case was a case where you are  
8     saying a police officer was ostracized for  
9     speaking to a bank robber?

10    **A.**     Yes.

11    **Q.**     Anything else about that incident that --

12    **A.**     That is what I am saying. The reason you  
13    don't say something, that was an example why you  
14    don't say something, because you are ostracized;  
15    and that was patrolmen and supervisors doing it  
16    to this guy, because he said something to the  
17    bank robber.

18    **Q.**     And you feel that was somehow a violation  
19    of the Constitution or some state law?

20    **A.**     Well, it is a violation of free speech, if  
21    they were bothering him for saying something.

22    **Q.**     The Pat Woods case, now, Pat Woods is the  
23    officer who shot the woman?

24    **A.**     Shot the girl, yes.

25    **Q.**     And if I understood you correctly,

1 attempted to plant a knife on her?

2 **A.** Yes.

3 **Q.** And you are saying that that was covered up  
4 by the Internal Affairs Unit?

5 **A.** Yes.

6 **Q.** And can you expand on that, how was it  
7 covered up?

8 **A.** Because I know he had that knife, and it  
9 was covered up because their thing was, she was  
10 drunk and she probably didn't remember, because  
11 she was drunk, if she had the knife or not.  
12 That was the way that they wrote it off, so to  
13 say.

14 **Q.** So the incident was investigated by  
15 internal affairs?

16 **A.** Yes, it was.

17 **Q.** But the conclusion they reached, you felt  
18 was purposefully untrue?

19 **A.** Yes, correct.

20 **Q.** And who were the internal affairs people  
21 that were involved in that investigation?

22 **A.** Lieutenant Rudolph, he was in charge of  
23 internal affairs at that time.

24 **Q.** Howard Rudolph?

25 **A.** Howard Rudolph.

1     **Q.**     Did you report what you believe to be a  
2     coverup to anybody?

3     **A.**     Judge Lloyd O. Brown.

4     **Q.**     Judge Lloyd O. Brown?

5     **A.**     That's correct.

6                     **MR. GILBERT:**             That is a middle  
7     initial.

8     **BY MR. MALLAMAD:**

9     **Q.**     I know. Where was he a judge?

10    **A.**     Cuyahoga County Common Pleas Court.

11    **Q.**     What advice, if any, did Judge Brown give  
12    you?

13    **A.**     He told me to go to internal affairs.

14    **Q.**     After you had learned of the product of  
15    their investigation?

16    **A.**     No. Before, you know, during the course of  
17    the investigation, after this happened, I went  
18    to him and told him what I saw.

19    **Q.**     Okay.

20    **A.**     He told me to go to internal affairs.

21    **Q.**     After you learned of the results of the  
22    investigation, did you go to anybody in the  
23    police department?

24    **A.**     No.

25    **Q.**     Why not?

1     **A.**     The police department was the one who  
2     covered it up. Who could I go to?

3     **Q.**     Well, you said Lieutenant Rudolph was the  
4     person who headed up this investigation?

5     **A.**     Yeah.

6     **Q.**     Did you speak to any Commander, Deputy  
7     Chief, the Chief of Police?

8     **A.**     No.

9     **Q.**     Why not?

10    **A.**     Rudolph made the call. I can say that -- I  
11    could say that I didn't agree with what he did,  
12    but they wrote it off. There was nothing you  
13    could do. They justified it, you know, the  
14    shooting.

15    **Q.**     Mr. Tell, if I understand you correctly,  
16    you disagreed with the conduct of Lieutenant  
17    Rudolph in investigating this incident, correct?

18    **A.**     Yes.

19    **Q.**     And my question was, after you learned of  
20    Lieutenant Rudolph's apparent misconduct, why  
21    did you not report that to a higher ranked  
22    officer?

23                   **MS. WANG:**                   Objection, asked  
24    and answered.

25                   **THE WITNESS:**               It was out of my

1 hands at that time. It was out of my hands at  
2 that time.

3 **BY MR. MALLAMAD:**

4 **Q.** That is what I am having trouble  
5 understanding.

6 **A.** He had made a decision. They are not going  
7 to change -- you don't understand the way the  
8 police department runs. Lieutenant Rudolph was  
9 a high ranking officer. He went on to be Chief  
10 of Police. He had friends as the Chief of  
11 Police at that time and all through the  
12 department. They are not going to change this  
13 decision.

14 **Q.** You didn't report it to a higher ranking  
15 officer, because you felt it would not do any  
16 good?

17 **A.** It would not do any good.

18 **Q.** Is there any other occasion where you had  
19 firsthand knowledge of a senior officer  
20 instructing or training junior officers to  
21 violate the Constitution or some state law?

22 **A.** No.

23 **Q.** Do you need to take a short break,  
24 Mr. Tell?

25 **A.** No.

1     **Q.**     Mr. Tell, during your career, were you ever  
2     involved in the development of policies for the  
3     Division of Police?

4     **A.**     Yes.

5     **Q.**     What policies were those?

6     **A.**     As a Commander, I was assigned to a team to  
7     institute the use of body armor by the Cleveland  
8     Police Department. I was in charge of putting  
9     body armor on all the Cleveland policemen.

10            I worked with the mayor, we worked on with  
11    the mayor, Mayor White, we worked on the City of  
12    Cleveland mission statement and that was it.

13    **Q.**     Were you ever involved in developing any  
14    general police orders that were eventually  
15    adopted and passed on?

16    **A.**     No.

17    **Q.**     So when you say you were involved in the  
18    subject of body armor, were you involved in  
19    developing written policies about when to use  
20    the body armor?

21    **A.**     Yes.

22    **Q.**     And where would one go to find that written  
23    policy back then?

24    **A.**     Well, it would be in the general police  
25    orders of the City of Cleveland.

1     **Q.**     So the body armor general police order was  
2     something you worked on and eventually became  
3     part of the set of general police orders?

4     **A.**     That's correct. And that was the year of  
5     2000, 1999, 2000. That is when we started  
6     giving everybody body armor.

7             I was assigned to that task by Deputy Chief  
8     Rocco Polottro.

9     **Q.**     Any other policies of the Division of  
10    Police you were involved in drafting, updating?

11    **A.**     Yeah. I graduated from the Police  
12    Executive Leadership College, and there I did a  
13    paper, which is used to recruit and retain  
14    minority employees for the City of Cleveland.

15             I first presented that to Chief Bill Hanton  
16    in 1983 and then resubmitted it later in my  
17    career as a Commander, between 1991 and 2001.

18    **Q.**     And the paper that you authored, did that  
19    somehow become part of the general police orders  
20    of the Division of Police?

21    **A.**     Not general police order. It just is a  
22    policy for the City of Cleveland.

23    **Q.**     And where --

24    **A.**     City of Cleveland Police Department.

25    **Q.**     And would that -- where would that policy



1 be found, I guess?

2 **A.** It would be in the recruitment unit  
3 probably.

4 **Q.** Any other policies besides the recruitment  
5 policy for the recruitment unit and the body  
6 armor policy that you helped draft?

7 **A.** That is all.

8 **Q.** Did you ever serve in the Division of  
9 Police's Policy Unit?

10 **A.** No.

11 **Q.** As a member of the Division of Police?

12 **A.** No.

13 **Q.** As a police officer, you are expected to  
14 review general police orders that are passed  
15 down from the Chief's office; is that a correct  
16 statement?

17 **A.** Correct.

18 **Q.** And police officers who may have a question  
19 about the general police order that is being  
20 issued, would know to go to their supervisors to  
21 have any questions answered?

22 **A.** Yes.

23 **Q.** Mr. Tell, what do you know about the issues  
24 in these lawsuits that we are here about today?

25 **A.** Well, I was contacted by an investigator,

1 because my name was mentioned in an  
2 investigation that I was supposed to give some  
3 information to a homicide detective concerning  
4 this, these guys. I don't know them, and I  
5 can't remember what type of information I gave,  
6 but somebody had my name on some papers.

7 Now, I did work in the neighborhood, and I  
8 lived in the neighborhood there during this  
9 time. And everybody knew me, I was a paperboy,  
10 then I got to be a Commander, they knew I was a  
11 police officer.

12 Then I worked in a thing called the Fairfax  
13 Security Patrol, so somewhere in that realm,  
14 somebody might have gave me some information and  
15 I passed information on. But what it was, I  
16 can't remember what happened.

17 Q. First of all, who was the investigator that  
18 contacted you?

19 A. I don't know. It was them people.

20 Q. The investigator worked for one of the  
21 attorneys?

22 A. Yes.

23 Q. Do you know which attorney he worked for?

24 A. Terry Gilbert.

25 Q. When were you contacted?

1     **A.**     About five or six, seven months ago,  
2     something like that.

3     **Q.**     How were you contacted?

4     **A.**     They came to my house.

5     **Q.**     Just knocked on your door?

6     **A.**     Yes.

7     **Q.**     And was it just one person?

8     **A.**     Female, yes.

9     **Q.**     And tell me about that conversation.

10    **A.**     She just asked me if I knew anything about  
11    this incident, and I couldn't remember. I just  
12    didn't know how many -- she showed me that my  
13    name had been given, but I don't know how it got  
14    there.

15    **Q.**     Is it your understanding that your name  
16    appears somewhere in the investigation file of  
17    the Harold Franks murder investigation?

18    **A.**     Yeah, yes.

19    **Q.**     How many times did you speak with the  
20    investigator?

21    **A.**     Once.

22    **Q.**     Have you ever spoken to any of the  
23    attorneys representing Mr. Jackson, Mr. Kwame or  
24    Mr. Bridgeman?

25    **A.**     Terry Gilbert.

1     **Q.**     Just Terry Gilbert?

2     **A.**     Yes.

3     **Q.**     Tell me when you first spoke to Terry  
4     Gilbert?

5     **A.**     It was after the investigator came to my  
6     house.

7     **Q.**     Where did you speak with him?

8     **A.**     In his office.

9     **Q.**     How did you know to go to his office?

10    **A.**     I received a phone call from him.

11    **Q.**     Let me ask you about the phone call.  What  
12    did you two talk about during the initial phone  
13    call?

14    **A.**     He had asked me -- the thing about she had  
15    asked me could I come down and expound on it.

16    **Q.**     How soon after the phone call did you speak  
17    with Mr. Gilbert?

18    **A.**     I think a couple of days later.

19    **Q.**     How long was the meeting with Mr. Gilbert?

20    **A.**     Oh, about an hour.

21    **Q.**     Tell me everything you two talked about.

22    **A.**     Everything I talked to you about today, up  
23    to right now.

24    **Q.**     Your career?

25    **A.**     Yes.  Misconduct, everything we have just

1     talked about, I discussed it with him.

2     **Q.**    Is there anything that you discussed with  
3     Mr. Gilbert that we have not talked about up to  
4     this point in your deposition?

5     **A.**    That's correct.

6     **Q.**    I am sorry, is there anything else that you  
7     spoke to Mr. Gilbert about, that we have not  
8     discussed to this point in your deposition?

9     **A.**    No.

10    **Q.**    Did you meet with Mr. Gilbert after that  
11    initial meeting in his office?

12    **A.**    I came back to read my statement and sign  
13    it, review and sign.

14    **Q.**    Did you speak with him on the phone, other  
15    than the one occasion when he asked you to come  
16    to his office?

17    **A.**    I talked to him yesterday.

18    **Q.**    Tell me about yesterday's conversation.

19    **A.**    I told him I had been out of town, and they  
20    were trying to serve a subpoena on me, but had  
21    the wrong address. I was just letting him know  
22    that I would be here today, that I received the  
23    subpoena.

24    **Q.**    Have you spoken to any other attorneys in  
25    this case, other than Terry Gilbert?

1     **A.**     No.

2     **Q.**     I know today, I believe you met with them  
3     in the conference room next door, before your  
4     deposition began?

5     **A.**     Right. With an attorney, besides him.

6     **Q.**     With these attorneys to your right?

7     **A.**     Yeah, we --

8     **Q.**     Tell me about that conversation.

9     **A.**     We didn't have a conversation. Just asked  
10    me if I come in here, to answer the questions  
11    that you gave me. Okay. Point of  
12    clarification.

13    **Q.**     Go ahead, sir.

14    **A.**     The two individuals on the end, they were  
15    at Mr. Gilbert's office the day that I made the  
16    deposition, the statement.

17    **Q.**     The second meeting with Mr. Gilbert or the  
18    first meeting?

19    **A.**     Both.

20    **Q.**     So you are referring to Attorney Jacqueline  
21    Greene and Attorney David Mills?

22    **A.**     Yes.

23    **Q.**     You also had a conversation with them  
24    during this meeting?

25    **A.**     They were in the interview, when we were

1 talking.

2 Q. Were you also speaking with them?

3 A. They were there, and they asked me  
4 questions and I answered questions, yes.

5 Q. Did you talk to them about anything else  
6 that you have not already told me you talked to  
7 Mr. Gilbert about?

8 A. No.

9 Q. Why don't we just take a short break here.

10 (Thereupon, a recess was taken.)

11 (Thereupon, Defendant's Exhibit 3 to  
12 the W. Tell deposition was marked for  
13 purposes of identification.)

14 BY MR. MALLAMAD:

15 Q. Mr. Tell, I am going to hand you what we  
16 have marked as Exhibit 3. Take a look at that  
17 and let me know if that is the affidavit that  
18 you signed.

19 (Witness complies with the request.)

20 A. That is it.

21 Q. It is?

22 A. Yes, it is.

23 Q. Who prepared that affidavit?

24 A. Mr. Gilbert, Attorney Gilbert.

25 Q. So after you met with Mr. Gilbert on the

1 first occasion, when you came back to his office  
2 on the second occasion, that affidavit was  
3 prepared and ready for your signature?

4 **A.** Yes.

5 **Q.** Were there any other versions of this  
6 affidavit besides the one that you signed?

7 **A.** Not that I know of.

8 **Q.** I am going to ask you about certain parts  
9 of the affidavit. Paragraph 10(a), I will quote  
10 from the affidavit. You state, "There was no  
11 formal training on police policies, practices,  
12 procedures after completing police academy  
13 training. All training after employment as a  
14 police officer was on-the-job training from  
15 other officers. Training was not standard nor  
16 uniform for every new officer because senior  
17 officers who trained new officers did not all  
18 use the same practices."

19 Did I read that correctly?

20 **A.** Yes, you did.

21 **Q.** Mr. Tell, the basis of that statement is  
22 based on your -- your knowledge as a police  
23 officer and the other officers that you knew; is  
24 that correct?

25 **A.** Yes, that is prior to the '80s and '90s,



1     when we started to have the formal training by  
2     training officers.

3     **Q.**     You are not able to testify as to what  
4     training every police officer received in the  
5     1970s; is that correct?

6     **A.**     Repeat the question.

7     **Q.**     You are not able to testify as to what  
8     training each police officer received in the  
9     1970s?

10                   **MR. GILBERT:**           Objection, form of  
11     the question.

12                   **THE WITNESS:**       Not every police  
13     officer in the City of Cleveland, I can't tell  
14     you how they were trained by the officer.

15     **BY MR. MALLAMAD:**

16     **Q.**     So this statement in paragraph 10(a) is  
17     based on your experience as a police officer,  
18     correct?

19     **A.**     That's correct.

20     **Q.**     And it is based on the training that you  
21     learned other officers that you knew received?

22     **A.**     That's correct.

23     **Q.**     But no other officers in the Division of  
24     Police for the 1970s?

25     **A.**     Right.

1     **Q.**     Besides yourself, how many officers whose  
2     training you became familiar with, are we  
3     talking about?

4     **A.**     Well, we had like 200 some officers in the  
5     Fourth District when I started. We had  
6     detectives on the police department I worked  
7     with over the years.

8             So the majority of the ones I worked with,  
9     I knew, and you could see how they were trained,  
10    because that was the standard operating  
11    procedure at that time.

12    **Q.**     Just so I make sure I understand you, in  
13    the 1970s, you were assigned to the --

14    **A.**     Fourth District.

15    **Q.**     -- Fourth District. And there were  
16    approximately 200 officers in the Fourth  
17    District?

18    **A.**     Yeah.

19    **Q.**     And is it your testimony that you are  
20    familiar with all of the training that each of  
21    those 200 officers received in the 1970s?

22    **A.**     No, just the ones I worked with out of the  
23    200.

24    **Q.**     That is what I am saying. Can you estimate  
25    for me how many of those officers we are talking

1 about?

2 **A.** Sixty.

3 **Q.** In paragraph 10(b), you state, "There was  
4 no formal training whatsoever for detectives in  
5 the 1970s."

6 **A.** That's correct.

7 **Q.** Is it a true statement, though, that  
8 detectives were trained by senior detectives and  
9 their supervisors?

10 **A.** That's correct.

11 **Q.** And the supervisors would oversee the  
12 day-to-day activities of detectives, because  
13 they had to review and sign off on their  
14 reports?

15 **A.** That's correct.

16 **Q.** And the supervisors had an opportunity to  
17 review and correct the detectives' activities  
18 and provide further on-the-job training?

19 **A.** That's correct.

20 **Q.** Supervisors also provided direction or  
21 training at roll calls by distributing general  
22 police orders and announcing other departmental  
23 changes?

24 **A.** That's correct.

25 **Q.** Mr. Tell, how is an investigation by a

1 detective different from an investigation being  
2 conducted by a patrol officer?

3 **A.** A patrol officer does the initial interview  
4 of individuals, suspects and victims. They make  
5 a report and then they send the report to be  
6 investigated by a detective, if the supervisor  
7 felt it needed to be investigated.

8 Then the detective would take the report  
9 and contact witnesses that the police officer  
10 might have left out of the report and he wanted  
11 to put in and do further investigations of that  
12 type.

13 **Q.** Well, both patrol officers and detectives  
14 gather information as part of an investigation,  
15 correct?

16 **A.** That's correct.

17 **Q.** Both detectives and patrol officers can  
18 collect physical evidence, correct?

19 **A.** Yes.

20 **Q.** Both detectives and patrol officers can  
21 interview witnesses and crime victims, correct?

22 **A.** Yes.

23 **Q.** Both detectives and patrol officers are  
24 supervised by more senior officers, correct?

25 **A.** Yes.

1     **Q.**     Both detectives and patrol officers are  
2     required to turn over the product of their  
3     investigation?

4     **A.**     Yes.

5     **Q.**     We talked earlier about when you joined the  
6     Auto Theft Unit how you learned how to be an  
7     auto theft detective by the more senior  
8     detectives.

9     **A.**     Yes.

10    **Q.**     Do you recall that conversation?

11    **A.**     Yes.

12    **Q.**     I think we have talked this morning,  
13    Mr. Tell, about the fact that you learned a  
14    great deal of how to be a police officer by more  
15    senior officers who showed you the ropes and  
16    techniques of how to be a good police officer?

17    **A.**     Yes.

18    **Q.**     How is that training different from what  
19    you have described as formal training?

20    **A.**     Well, formal training now basically they do  
21    the same thing now they did in the '70s. You  
22    get assigned to the Detective Bureau, you come  
23    in and someone will show you what you are  
24    supposed to do.

25            It is basically being done the same way

1     today that a senior officer will show you what  
2     to do.

3     **Q.**     Here is what I am trying to understand,  
4     because of the words in your affidavit. You  
5     were an auto theft detective, you said you  
6     learned how to be an auto theft detective by  
7     working alongside more senior detectives.

8     **A.**     Yes.

9     **Q.**     Then through that process, you learned how  
10    to be a competent auto theft detective?

11    **A.**     Yes.

12    **Q.**     And I have been referring to that as  
13    on-the-job training. Is that a fair statement?

14    **A.**     That's correct.

15    **Q.**     I am trying to find out how that type of  
16    training would be different from what you have  
17    been describing in your affidavit as formal  
18    training?

19    **A.**     Well, formal training would be if they sent  
20    you to the police academy, sat you down, gave  
21    you a manual and said, "This is what you are  
22    supposed to do."

23            If you went to the highway patrol and  
24    received training there, later on I did go to  
25    the highway patrol and receive training, I did

1 go to the National Auto Theft Bureau and receive  
2 training; but on the Cleveland Police  
3 Department, it was generally on-the-job  
4 training, this is what you are supposed to do.

5 For instance, you have a prisoner who you  
6 are going to let go, and my experience with it  
7 was that I went to talk to the prisoner to let  
8 him go, and he was laying on the bench and he  
9 was asleep, acting like he was asleep.

10 As I stood there, "Sir, sir," old-timer, my  
11 partner, senior officer said, "Come on, let's  
12 go. See you tomorrow," he said, and we left.

13 He said, "Wait. Tomorrow when you go in,  
14 he is going to be standing right there waiting  
15 for you at the door, because he don't want to  
16 spend another day in jail." I actually  
17 sentenced him to another day in jail, playing  
18 games, acting like he was sleepy.

19 Next day I went down, sure enough, that guy  
20 was standing holding the bars, he is ready to go  
21 out. That was a technique that old-timers  
22 taught me not to be used by a prisoner. You  
23 passed it on, if you ever have a guy do this,  
24 this is what you do, and it was passed down.

25 Certain things they do in order to get

1 testimony from people, or make a person give  
2 some respect, so to say.

3 **Q.** Would you agree that working closely with a  
4 more seasoned detective through on-the-job  
5 training, would be superior to formal training  
6 in a classroom?

7 **A.** Yes, yes.

8 **Q.** You would agree?

9 **A.** Yes.

10 **Q.** In paragraph 10(c) of your affidavit you  
11 state that "Information about changes in the law  
12 was not provided to detectives through formal  
13 training."

14 As a detective, how did you learn about  
15 changes in the law that affected your job?

16 **A.** Like I said before, we did things by  
17 teletype. People hoarded it and you found out  
18 by different things and news media. News media  
19 tell you about changes in the law.

20 If you were a person that read things, you  
21 would take it on yourself to do it.

22 **Q.** And supervisors would also inform you and  
23 instruct you as to changes in the law?

24 **A.** Yes, at roll call, they would sometimes  
25 read things, this is what is going to happen.



1     **Q.**     If a new general police order came out that  
2     talked about changes in the law that you needed  
3     to be aware of, the supervisor at roll call or  
4     of your unit, would make you aware of that?

5     **A.**     He would read it, yes.

6     **Q.**     You also would learn about changes in the  
7     law through in-service training that took place?

8     **A.**     Yes.

9     **Q.**     In paragraph 10(d) of your affidavit you  
10    state, "New general police orders reflecting  
11    changes in the law were issued and passed out to  
12    detectives to review on their own time."

13    **A.**     Yes.

14    **Q.**     Do you see that?

15    **A.**     Yes.

16    **Q.**     A general police order is a directive from  
17    the Chief of Police, correct?

18    **A.**     Yes.

19    **Q.**     And police officers are expected to adhere  
20    to the general police order?

21    **A.**     That's correct.

22    **Q.**     A police officer who fails to follow the  
23    mandates of a general police order is subject to  
24    discipline?

25    **A.**     That's correct.

1     **Q.**     When you state that detectives were  
2     expected to review general police orders on  
3     their own time, is it a true statement that you  
4     were expected to review the general police order  
5     during your shift or while you were on the  
6     clock, so to speak, as a police officer?

7     **A.**     Or at home, pick a copy of it and take it  
8     home with you. Like I said, if you are setting  
9     up a notebook, we set up notebooks, guys that  
10    wanted to be promoted, we would get these  
11    general police orders and put them in notebooks,  
12    so we could review them during the time we have  
13    promotional exams.

14            So if you were the type of guy that wanted  
15    to get promoted, you would keep up on it. The  
16    other guys would take them and throw them in  
17    their lockers.

18    **Q.**     When a general police order that talked  
19    about changes in the law was created, that would  
20    be something that the supervisors would make  
21    sure that the junior officers were aware of  
22    during roll call?

23    **A.**     Aware of by reading it to them.

24    **Q.**     Yes.

25    **A.**     And then giving you a copy.

1     **Q.**     And then if the officers again had any  
2     questions about that, the supervisor was there  
3     to answer the questions?

4     **A.**     Yes.

5     **Q.**     In paragraph 11(a) of your affidavit you  
6     state, "There were no formal, written  
7     departmental rules dictating what information  
8     detectives should or must provide to  
9     prosecutors"?

10    **A.**     That's correct.

11    **Q.**     What was taught in the police academy about  
12    disclosing exculpatory evidence?

13    **A.**     You were told to give it to them, to a  
14    prosecutor in the police academy. But once you  
15    got out, you did what you wanted to do with it.

16    **Q.**     You were taught or trained that you were to  
17    provide whatever exculpatory evidence that you  
18    uncovered during your investigation to the  
19    prosecutor?

20    **A.**     Yes.

21    **Q.**     And is it a fair statement, Mr. Tell, that  
22    you were trained as a police officer to turn  
23    over the entire investigation that you worked on  
24    to the prosecutor?

25    **A.**     Yes.

1     **Q.**     And the prosecutor is the person that makes  
2     the decision as to what is exculpatory evidence?

3     **A.**     Yes.

4     **Q.**     Do you know of any instance where a  
5     Cleveland police officer failed to turn over  
6     exculpatory evidence to a prosecutor?

7     **A.**     A lot of things you did, like I worked with  
8     slips of paper, a lot of detectives wrote things  
9     on pieces of paper.

10           And you keep certain things on pieces of  
11    paper. And sometimes, after the case is over,  
12    you might have not given that information to the  
13    prosecutor. And so it happens.

14    **Q.**     Can you identify any instance where a  
15    Cleveland police officer withheld exculpatory  
16    evidence from a prosecutor?

17    **A.**     No.

18    **Q.**     And as to the notes that you were just  
19    talking about, I assume from the time you were a  
20    patrol officer, up to the time you were a  
21    detective, maybe up through your career as a  
22    Commander, if you were involved in an  
23    investigation, sometimes you were out on the  
24    streets and you were taking handwritten notes or  
25    you are making handwritten notes, based on who

1 you may be speaking to or observations you made,  
2 correct?

3 **A.** Right.

4 **Q.** But then eventually, you take those  
5 handwritten notes and you go back and prepare a  
6 Form 1 supplemental report?

7 **A.** Yes.

8 **Q.** And that becomes the official record of the  
9 investigation, the typed up report, correct?

10 **A.** That's correct.

11 **Q.** So the handwritten notes, is it true that  
12 they are just a tool for you to assist you in  
13 preparing the formal, typed up report that  
14 becomes part of the investigation?

15 **A.** Yes.

16 **Q.** And so if the notes, the handwritten notes  
17 that were prepared, the information is then  
18 transferred to a typed report, you would agree  
19 that there is nothing lost if those handwritten  
20 notes are eventually discarded by that officer  
21 or detective?

22 **A.** Well, it depends on the things on the  
23 handwritten notes, that were not transferred and  
24 transcribed back in that report.

25 **Q.** But if everything that was handwritten is

1 transferred to the typed report, you would agree  
2 the handwritten notes are no longer useful?

3 **A.** They are no longer. But I suggest that you  
4 keep them. That was my policy, I would keep  
5 them.

6 **Q.** You are familiar with what impeachment  
7 evidence is?

8 **A.** Yes.

9 **Q.** Are you aware of any instance where a  
10 Cleveland police officer withheld impeachment  
11 evidence to a prosecutor?

12 **A.** I think in the Feckner case, the case  
13 called the Feckner case, where Officer  
14 Bystrickey and some other guys withheld evidence  
15 in a drug case for the City of Cleveland and a  
16 drug dealer. Feckner.

17 **Q.** Were you involved in the investigation of  
18 that case?

19 **A.** No, I knew about it. A major case in the  
20 City of Cleveland.

21 **Q.** Tell me the year of that case.

22 **A.** I was a Sergeant at that time. So it was  
23 between the '80s and the '90s.

24 **Q.** And who was the officer or officers who  
25 withheld impeachment evidence from the

1 prosecutor?

2 **A.** The name of Bystrickey.

3 **Q.** Bystrickey is his name?

4 **A.** Yes. And the Defendant was Feckner.

5 **Q.** Feckner was the Defendant's name?

6 **A.** Yes.

7 **Q.** What was the evidence that was withheld?

8 **A.** Oh, information about some drugs and how  
9 they bought drugs and transported drugs into the  
10 City of Cleveland and allowed this guy to do a  
11 lot of things illegally and to sell the drugs.

12 **Q.** That case just as an aside, did not involve  
13 a homicide, correct?

14 **A.** No, just drugs.

15 **Q.** What was the result of the criminal case?

16 **A.** Oh, he was found guilty.

17 **Q.** And was Mr. Feckner's guilty finding upheld  
18 on appeal?

19 **A.** Oh, no, Feckner -- I don't know what  
20 happened to the case. I think he was found  
21 guilty. You can look it up, it is a major case  
22 in the City of Cleveland.

23 **Q.** Do you know what happened to the  
24 disposition of that criminal case against  
25 Mr. Feckner?

1     **A.**     I think he was let go or something after  
2     that, because of what happened. He was a big  
3     informer for the police department.

4     **Q.**     When you said because of what happened,  
5     what do you mean?

6     **A.**     By the conduct of the Cleveland Police  
7     Department allowed him to sell drugs inside the  
8     City of Cleveland, I think he might have been  
9     exonerated or erased on appeal or something like  
10    that. I can't tell you --

11    **Q.**     If you don't know, you don't know.

12    **A.**     No, no.

13    **Q.**     Did the eventual outcome of his criminal  
14    case have anything to do with the withholding of  
15    impeachment evidence that you state was done by  
16    the detective?

17    **A.**     Possibly.

18    **Q.**     But you don't know?

19    **A.**     No.

20    **Q.**     And, Mr. Tell, I am sorry, were you at all  
21    involved in that investigation?

22    **A.**     I had possession of the -- the police made  
23    an initial raid on his place and I was in  
24    charge, I had the initial control of the keys to  
25    the crime scene.



1     **Q.**     Were you aware of the impeachment evidence  
2     that you state the detective failed to turn over  
3     to the prosecutor?

4     **A.**     Mainly the evidence was that they allowed  
5     this guy to sell drugs in the City of Cleveland  
6     without prosecuting him, arresting him.

7     **Q.**     Did you present that evidence to the  
8     prosecutor?

9     **A.**     No, no.

10    **Q.**     Why not?

11    **A.**     They was investigating the case.

12    **Q.**     But you were aware of the impeachment  
13    evidence?

14    **A.**     Yes. Because reading reports and news  
15    stories, news reports.

16    **Q.**     I guess just so I understand, is it true  
17    you were aware of the impeachment evidence --

18                   **MR. GILBERT:**         Shawn, he heard  
19    about it after the fact. Okay? That is what he  
20    is telling you.

21                   **THE WITNESS:**         Yeah.

22                   **MR. FUNK:**             Objection. Don't  
23    answer the question for him.

24                   **MR. GILBERT:**         I mean, we are  
25    going around in circles here.

1                   **MR. MALLAMAD:**       Terry, I am trying  
2     to understand.

3     **BY MR. MALLAMAD:**

4     **Q.**    Your knowledge of the withholding of the  
5     impeachment evidence happened after the  
6     conviction?

7     **A.**    Yes.

8     **Q.**    Did any supervisors of that detective --  
9     were any supervisors of that detective aware  
10    that that detective withheld the impeachment  
11    evidence from the prosecutor?

12    **A.**    I think so.

13    **Q.**    Do you know?

14    **A.**    Yes.

15    **Q.**    What firsthand knowledge do you have that  
16    the supervisors were aware?

17    **A.**    Just by information that we received during  
18    the trial and after the trial.

19    **Q.**    You mean reading in the newspaper?

20    **A.**    Yes. And, you know -- yes.

21    **Q.**    And who were the supervisors that were  
22    aware of that?

23    **A.**    I think Howard Rudolph might have been  
24    involved in that.

25    **Q.**    Mr. Tell, you don't have any firsthand

1 knowledge that the supervisors were aware, you  
2 just know from reading the newspaper?

3 **A.** Yes.

4 **Q.** What actions did the supervisors take in  
5 response to learning that the detective withheld  
6 exculpatory evidence?

7 **A.** I couldn't tell you.

8 **Q.** You have no firsthand knowledge?

9 **A.** No.

10 **Q.** Cleveland police officers are trained and  
11 instructed to turn over the entire product of  
12 their investigation to the prosecutor; is that  
13 correct?

14 **A.** Yes.

15 **MS. WANG:** Objection, asked  
16 and answered.

17 **BY MR. MALLAMAD:**

18 **Q.** Do you know of any case where a Cleveland  
19 police officer failed to turn over the entire  
20 product of an investigation to the prosecutor,  
21 other than the Feckner case that you have  
22 described?

23 **A.** No.

24 **Q.** In paragraph 11(c) of your affidavit, you  
25 state, "It was the practice of Cleveland police

1 detectives to provide to prosecutors only arrest  
2 reports, witness forms and written statements  
3 taken by the Statement Unit."

4 **A.** Yes.

5 **Q.** Do you see that there?

6 **A.** Yes.

7 **Q.** Can you tell me any instance where this  
8 conduct occurred?

9 **A.** It happened all the time, every case.

10 **Q.** Well, tell me the name of a detective who  
11 engaged in that behavior.

12 **A.** William Tell, Leonard Sims, Bystrickey and  
13 many others.

14 **Q.** Can you identify any others?

15 **A.** Charlie Vavarina, Paskvan.

16 **Q.** With respect to paragraph 11(c), are you  
17 able to tell me of any occasion where a homicide  
18 detective for the Division of Police engaged in  
19 that conduct?

20 **A.** I don't know. It is a blanket statement.  
21 I am saying that -- let me clarify. When you do  
22 reports, these are reports that you get and you  
23 turn over to the prosecutor. Now, if you find  
24 some evidence, you turn that over. These are  
25 the basic things you give the prosecutor.

1           Every policeman, even today, these are the  
2   things you give a prosecutor when you have a  
3   case; basic statements, forms, that type of  
4   thing. There is nothing wrong with it now.

5   **Q.**   Besides the items that you list in  
6   paragraph 11(c), what are the other things that  
7   a police detective would not turn over to the  
8   prosecutor?

9   **A.**   This is about all you turn over, besides  
10   photos. That is what you give to them.

11           What they might not turn over to them is a  
12   statement made by someone that is immaterial to  
13   what you investigate. You might go out and talk  
14   to the people and have new information, you  
15   would turn the information over to them. You  
16   interview people. If they didn't have anything  
17   to give to the case, you would not turn that  
18   information to the police department, just you  
19   leave it in your file as an interview.

20   **Q.**   So the police detectives would turn over to  
21   the prosecutor the entire product of their  
22   investigation that concerned the crime they were  
23   investigating; is that correct?

24                   **MR. GILBERT:**           Objection.

25                   **THE WITNESS:**           Yes.

1     **BY MR. MALLAMAD:**

2     **Q.**     Again, Mr. Tell, as far as your career  
3     goes, you don't have any firsthand knowledge  
4     about what any homicide detective may or may not  
5     have turned over to a prosecutor?

6     **A.**     No.

7     **Q.**     In paragraph 11(d) you state, "Unless a  
8     prosecutor asked the detective working the case  
9     if there was anything else related to the case  
10    that he should know about, then the prosecutor  
11    would not receive any additional information  
12    beyond written statements"?

13    **A.**     That's correct.

14    **Q.**     Can you tell me of every instance where a  
15    police officer engaged in that conduct?

16    **A.**     Almost every investigation you have, there  
17    are some things that if you don't ask for them,  
18    you don't get. Don't ask, don't tell. And you  
19    don't give it to them.

20    **Q.**     I need to know if you can identify for me a  
21    specific occasion where a detective engaged in  
22    that conduct.

23                   **MR. GILBERT:**           He just said  
24    everybody does it. You want the list of the  
25    whole Cleveland Police Department?

1                   **MR. MALLAMAD:**       Terry, you can't  
2     make --

3                   **MR. GILBERT:**       I think it is a  
4     ridiculous question.

5                   **MR. MALLAMAD:**       You have made your  
6     objection.

7     **BY MR. MALLAMAD:**

8     **Q.**     Can you tell me the criminal case that is  
9     associated with that detective's conduct?

10                  **MR. GILBERT:**       Objection,  
11     harassment.

12                  **MR. MALLAMAD:**       Come on, Terry.

13                  **MR. GILBERT:**       Ambiguous,  
14     badgering, everything else that is -- he has  
15     already answered the question. It was the  
16     practice.

17     **BY MR. MALLAMAD:**

18     **Q.**     You can answer the question, Mr. Gilbert  
19     has made his objection.

20     **A.**     I can't give you a specific case, because I  
21     can't tell you the name of everybody that worked  
22     on a case.

23     **Q.**     Can you tell me what the evidence was  
24     withheld in any of those occasions?

25     **A.**     It could be anything suspect, another

1 suspect, a witness, those type of things.

2 **Q.** But my question is, what specific evidence  
3 can you identify for me that was withheld by a  
4 detective that you are referring to in paragraph  
5 11(d)?

6 **A.** For instance, the Feckner case, they  
7 withheld a lot of evidence in that case from the  
8 prosecutor. That is a case.

9 **Q.** Besides the Feckner case, can you identify  
10 for me any other evidence that you claim was  
11 withheld by a Cleveland police detective in a  
12 criminal case?

13 **A.** Not unless I could see the names of the  
14 police that worked on the police department  
15 during that time.

16 **Q.** In paragraph 11(e) you state, "If there was  
17 evidence that an alternative suspect committed a  
18 crime, detectives investigated and decided for  
19 themselves whether this information would be  
20 turned over to the prosecutor"?

21 **A.** Yes.

22 **Q.** Can you tell me every instance where that  
23 type of conduct occurred?

24 **MR. GILBERT:** Objection.

25 **THE WITNESS:** I can't tell you



1 the incident, but I can tell you that it  
2 occurred.

3 **BY MR. MALLAMAD:**

4 **Q.** Can you identify for me the name of any  
5 detective that engaged in that conduct?

6 **A.** Bystrickey.

7 **Q.** The Feckner case?

8 **A.** Yes.

9 **Q.** Besides the Feckner case, can you identify  
10 any other detective that you claim engaged in  
11 that conduct?

12 **A.** I can't remember that.

13 **Q.** Can you identify for me the name of the  
14 criminal Defendant whose case the detective  
15 engaged in that conduct?

16 **A.** No.

17 **Q.** Can you identify for me the specific  
18 evidence that was withheld?

19 **A.** No. All I can say is I know it was done.

20 **Q.** Paragraph 11(f) -- I am sorry.

21 With respect to paragraph 11(e) of your  
22 affidavit, can you identify for me any homicide  
23 detective that engaged in that conduct?

24 **A.** No.

25 **Q.** Paragraph 11(f) says, "If someone provided

1 a detective with a tip that an alternative  
2 suspect committed a crime the detective was  
3 investigating, the detective would follow up on  
4 the tip. If the detective felt that the tip did  
5 not materialize, the detective would not tell  
6 the prosecutor about the tip."

7 **A.** That's correct.

8 **Q.** Can you tell me on what occasions this type  
9 of conduct occurred?

10 **A.** That happens every day.

11 **Q.** Can you identify for me any detective by  
12 name who engaged in that conduct?

13 **A.** Just Cleveland police detectives in  
14 general.

15 **Q.** Can you identify for me the criminal  
16 Defendant's name in whose case that conduct  
17 occurred?

18 **A.** John Q. Public criminal.

19 **Q.** Can you identify for me any Cleveland  
20 homicide detective who engaged in that conduct?

21 **A.** Homicide detectives in general, Cleveland  
22 police.

23 **Q.** Can you identify for me the specific case  
24 that you are referring to when you say that  
25 homicide detectives engaged in that conduct?

1     **A.**     Any case they investigate.

2     **Q.**     Well, you never worked in the Homicide  
3     Unit?

4     **A.**     No.

5     **Q.**     How can you make that statement about  
6     homicide detectives?

7     **A.**     Because that is a general thing done by all  
8     detectives. I am painting everybody with the  
9     same brush.

10    **Q.**     But, Mr. Tell, you did not work with the  
11    Homicide Unit, correct?

12    **A.**     Well, you know the practice and policies,  
13    you know what was done.

14    **Q.**     I guess we are trying to find out today  
15    what firsthand knowledge you have, versus what  
16    opinions you may have about the department as a  
17    whole.

18                   **MR. GILBERT:**           Objection. He  
19    already told you how he knows it.

20    **BY MR. MALLAMAD:**

21    **Q.**     What firsthand knowledge do you have that  
22    homicide detectives engaged in the behavior that  
23    you are describing in paragraph 11(f)?

24    **A.**     No firsthand. But I am aware of it. I  
25    can't give you the name of the guy.

1     **Q.**     In paragraph -- excuse me. Paragraph 12(a)  
2     of your affidavit you state, "Beyond academy  
3     training, there was no other training for police  
4     detectives in how to interrogate witnesses."

5     **A.**     That's correct.

6     **Q.**     What was taught in the academy about how to  
7     interrogate witnesses?

8     **A.**     Well, they told you, you bring a guy in a  
9     room, you face him, face-to-face, you don't lead  
10    him on, you let him give you information, basic  
11    interview techniques.

12   **Q.**     And you would agree that once you became a  
13    detective in the Auto Theft Unit, that you  
14    learned more about this -- about interrogation  
15    techniques by senior officers?

16   **A.**     Yes.

17   **Q.**     Your interrogation techniques were  
18    supervised by your supervisors?

19   **A.**     No. Sometimes you could take -- you don't  
20    have a supervisor with you when you interrogate  
21    suspects at all times.

22   **Q.**     Well, the product of your interrogation  
23    would be reviewed by a supervisor, right?

24   **A.**     On paper, yes.

25   **Q.**     In paragraph 12(b) you state, "Detectives

1 developed and used their own methods and  
2 practices in interrogations."

3 **A.** Yes.

4 **Q.** Would you agree, Mr. Tell, that unless the  
5 detective engaged in inappropriate conduct, that  
6 many officers develop their own techniques as  
7 far as how to conduct an interrogation?

8 **A.** That's correct.

9 **Q.** In fact, officers even in basic patrol  
10 develop their own techniques?

11 **A.** Yes.

12 **Q.** And there are different techniques,  
13 depending on the specialized units; is that a  
14 fair statement?

15 **A.** Fair statement.

16 **Q.** For instance, a sex crime detective may  
17 develop certain techniques that are unique to  
18 that area of the law?

19 **A.** That's correct.

20 **Q.** And that may be different than techniques  
21 than an auto theft detective may use?

22 **A.** Yes.

23 **Q.** And auto theft detective techniques may be  
24 different than techniques a homicide detective  
25 would use?

1     **A.**     Yes.

2     **Q.**     Or a narcotics detective?

3     **A.**     Yes.

4     **Q.**     And the variations in techniques are okay,  
5     as long as the officer does not engage in  
6     misconduct?

7     **A.**     That's correct.

8     **Q.**     In paragraph 12(c) you state, "There was no  
9     formal written order or directive that  
10    prohibited giving information to a suspect or  
11    witness in the course of an interview or  
12    interrogation concerning the facts of the  
13    crime."

14            Do you see that?

15    **A.**     Yes.

16    **Q.**     With respect to that, is it a fair  
17    statement that all officers are bound by the  
18    rules of the Division of Police that prohibit  
19    improper conduct?

20    **A.**     Yes.

21    **Q.**     And if it is improper to give information  
22    to a suspect or witness in the course of an  
23    interview or interrogation concerning the facts  
24    of the crime, that officer would be subject to  
25    discipline?

1     **A.**     Yeah, possibly.

2     **Q.**     Can you tell me of every instance where an  
3     officer engaged in the conduct you describe in  
4     paragraph 12(c) of your affidavit?

5     **A.**     No, I can't.

6     **Q.**     Paragraph 12(d) of your affidavit states  
7     that "During the 1970s, I recall Cleveland  
8     police officers conducting interrogations of  
9     suspects where officers punched suspects in the  
10    face and head, knocking them down, in efforts to  
11    get those suspects to confess or implicate  
12    others. When physically beating these people,  
13    the officers would say things along the lines of  
14    'Now you are going to tell us the truth.' I  
15    witnessed this conduct on occasions where  
16    officers interrogated or interviewed black  
17    people, both as suspects and as witnesses."

18    **A.**     That's correct.

19    **Q.**     Can you tell me every instance where this  
20    occurred?

21    **A.**     Once there was a guy in the station,  
22    Garfield Travis was the policeman. T-r-a-v-i-s.  
23    Garfield Travis was the police officer. And  
24    Garfield interviewed the guy, he knew the guy  
25    was lying. He knew he was lying to him.

1           And so the lie was so great and compelling  
2   that Garfield slapped him out of the chair,  
3   stomped and kicked him, sat the chair back up,  
4   brushed him off and said, "Now you want to tell  
5   me the truth?" And the guy confessed.

6   **Q.**   What was the name of that Defendant?

7   **A.**   Don't know. Just saw it, I was there when  
8   it happened.

9   **Q.**   Was that a homicide case?

10   **A.**   No, no.

11   **Q.**   What was the result of the criminal case?

12   **A.**   I could not tell you.

13   **Q.**   What did you do to intervene, Mr. Tell,  
14   when you saw this conduct?

15   **A.**   Didn't do anything.

16   **Q.**   Why not?

17   **A.**   The thin blue line again. The thin blue  
18   line again. I don't want to be ostracized. I  
19   was young in my career then.

20   **Q.**   Garfield Travis was a more senior officer?

21   **A.**   Oh, yeah.

22   **Q.**   Was he a patrol officer?

23   **A.**   Yes.

24   **Q.**   And when in the 1970s did that happen?

25   **A.**   Between 1969 and 1971.



1     **Q.**     And what district was that?

2     **A.**     Fourth.

3     **Q.**     Do you have any firsthand knowledge that a  
4     supervisor was aware of Officer Travis' conduct?

5     **A.**     I know they heard about it.

6     **Q.**     What --

7     **A.**     I know they heard about it. But somebody  
8     tell him? Oh, yeah, it went through the  
9     grapevine, but they knew what happened.

10    **Q.**     And you have firsthand knowledge of that?

11    **A.**     Pardon me?

12    **Q.**     You --

13    **A.**     I saw the incident happen. And I am sure  
14    the supervisor knew about it.

15    **Q.**     But do you have firsthand knowledge that a  
16    supervisor was made aware of Officer Travis'  
17    conduct?

18    **A.**     No.

19    **Q.**     Do you have any firsthand knowledge that  
20    the Chief of Police or Safety Director became  
21    aware of Officer Travis' conduct?

22    **A.**     No. Detective Higgins, H-i-g-g-i-n-s,  
23    Higgins, H-i-g-g-i-n-s, was the desk officer in  
24    the Detective Bureau, and a white suspect came,  
25    they brought a white suspect in, and Higgins

1 asked the man his name and the man told him that  
2 "I don't give no nigger my name."

3 So at this time, Higgins took the Golden  
4 Rule Book, Golden Rule Book is a book that you  
5 put all the suspects' names in that you arrest  
6 at the station, about 4 inches thick, and said  
7 "Get back, he is mine." He hit the guy in the  
8 head with the book, knocked him down, went  
9 around, stomped him and beat him, and stood the  
10 guy back up and said, "Now, what's your name?"  
11 And the guy gave him his name and everything,  
12 after that beating.

13 I was a detective then. That was in '71,  
14 that year, I saw that happen at the Third  
15 District Police Department, Detective Bureau in  
16 the Third District.

17 Q. What was the name of that individual?

18 A. Don't know. All I can say is he was a  
19 white male that came into the station.

20 Q. Do you know what was the disposition of the  
21 criminal case?

22 A. No.

23 Q. Did that involve a homicide?

24 A. No.

25 Q. What action did you take, Mr. Tell, when

1     you saw Officer Higgins' conduct?

2     **A.**     None.

3     **Q.**     Why not?

4     **A.**     Same reason. I did not want to be  
5     ostracized by the police department.

6     **Q.**     Do you have any firsthand knowledge that a  
7     supervisor became aware of Officer Higgins'  
8     conduct?

9     **A.**     Oh, they were there when it happened. They  
10    saw it.

11    **Q.**     Which supervisor saw it?

12    **A.**     Lieutenant Lawerhouse, L-a-w-e-r-h-o-u-s-e.

13    **Q.**     Any other supervisors?

14    **A.**     Ralph -- I am sorry, not Ralph Perk. What  
15    is the guy's name? I can't remember the name.  
16    Lawerhouse saw it.

17    **Q.**     Do you have any firsthand knowledge as to  
18    what Lieutenant Lawerhouse did following him  
19    witnessing what Officer Higgins did?

20    **A.**     He laughed at it. He felt the guy had it  
21    coming from the comment that he made.

22    **Q.**     Do you have any firsthand knowledge that  
23    Lieutenant Lawerhouse reported what he observed  
24    to internal affairs?

25    **A.**     No.

1     **Q.**     Or that Lieutenant Lawerhouse otherwise  
2     caused an investigation to be conducted?

3     **A.**     No.

4     **Q.**     Do you have any firsthand knowledge as to  
5     whether the Chief of Police or Safety Director  
6     came to learn of Officer Higgins' conduct?

7     **A.**     No.

8     **Q.**     In paragraph 12(e) of your affidavit -- I  
9     am sorry, pardon me.

10            Besides from Officers Travis and Higgins,  
11     do you have any other instances of the type of  
12     conduct that you describe in paragraph 12(d) of  
13     your affidavit?

14     **A.**     I told you about the incident in Shaker  
15     Heights, they weren't interrogating him. But it  
16     was a form of brutality, I described earlier.  
17     The Shaker Heights incident at Milverton and  
18     Chagrin.

19     **Q.**     Yes.

20     **A.**     Okay.

21     **Q.**     Any other instances of the type of conduct  
22     you described in paragraph 12(d) of your  
23     affidavit?

24     **A.**     No.

25     **Q.**     Can you remind me again of the name of the

1 officer or officers who engaged in the Shaker  
2 Heights incident?

3 **A.** That was Lieutenant Troyon was the  
4 Lieutenant who was there. He was the guy that  
5 was there when the incident happened.

6 **Q.** And who were the officers involved in the  
7 misconduct?

8 **A.** One guy's last name was Saferight,  
9 S-a-f-e-r-i-g-h-t. Ayere, A-y-e-r-e, Wayne  
10 Ayere.

11 **Q.** Okay.

12 **A.** Ivan Sevel, S-e-v-e-l. That was about it.

13 **Q.** Do you have any firsthand knowledge as to  
14 whether Lieutenant Troyon --

15 **A.** Troyon.

16 **Q.** Troyon, excuse me -- took any action to  
17 have the conduct of these officers investigated?

18 **A.** They all retired from the Cleveland Police  
19 Department. So evidently, nothing happened.

20 **Q.** But do you have any firsthand knowledge as  
21 to what Lieutenant Troyon did with this, after  
22 having observed this incident?

23 **A.** He directed traffic.

24 **Q.** I am talking about after the day of the  
25 incident. Do you have any firsthand knowledge

1 as to whether he communicated this to his  
2 superiors?

3 **A.** No.

4 **Q.** Or caused an investigation to be conducted?

5 **A.** There was no investigation conducted. So  
6 evidently he didn't do anything with it.

7 **Q.** Do you have any evidence that the Chief of  
8 Police or Safety Director ever became aware of  
9 this incident?

10 **A.** Of the shooting of the Shaker Heights  
11 police officer? Yes. They knew about that.  
12 But they didn't know about the actions that  
13 happened.

14 **Q.** The misconduct that you have described?

15 **A.** Yes, yes.

16 **Q.** Any other instances, Mr. Tell, that you can  
17 identify that concerns the type of conduct you  
18 have set forth in paragraph 12(d) of your  
19 affidavit?

20 **A.** No.

21 **Q.** In paragraph 12(e) of your affidavit you  
22 state that "In the 1970s, I was also aware of  
23 other officers wrongfully conducting  
24 interrogations of juveniles without their  
25 parents present."

1 Do you see that?

2 **A.** Yes, that happened in the '70s and it  
3 happened when I was Chief of Detectives in the  
4 '80s, when I was a Lieutenant in the Fourth  
5 District, I saw it. Interrogation happened that  
6 way, yes.

7 **Q.** Well, tell me of every instance where this  
8 type of conduct occurred in the 1970s.

9 **A.** Well, the '70s, you know, things were done  
10 by the majority of the people, because there was  
11 no set rules at that time that they would  
12 follow.

13 So I say it was just done in general. The  
14 incident I am going to tell you about in the  
15 '80s, where we had a kid that assaulted another  
16 kid, and two of my detectives, Healean Medley  
17 and another girl by the name of Bolden, were  
18 interviewing these kids and taking statements  
19 off of them. I objected to it, because one, we  
20 didn't have anyplace for a statement to be  
21 taken.

22 Two, they weren't social workers.

23 Three, anytime a juvenile does stuff, you  
24 make a juvenile fact sheet and you send it to  
25 juvenile, and the parents weren't there.

1 I objected, and because of my objections, I  
2 was kicked out of the Detective Bureau and that  
3 is how I got to the Fifth District. Because I  
4 objected to these girls doing this and they were  
5 friends with the Commander and I was moved.

6 **Q.** Can you identify for me any instances in  
7 the 1970s where officers engaged in the type of  
8 conduct you have described in paragraph 12(e) of  
9 your affidavit?

10 **A.** That is too numerous. I can't remember all  
11 the incidents. I can't give you the names. But  
12 I know it was done.

13 **Q.** But is it fair to say you can't identify  
14 for me any specific incident when this occurred?

15 **A.** Well, give you names and dates and that  
16 type of thing, no, I can't. But I can tell you  
17 it was done.

18 **Q.** Can you identify for me the name of any  
19 officer who engaged in this type of behavior in  
20 the 1970s?

21 **A.** No.

22 **Q.** Can you tell me whether any homicide  
23 detective engaged in the type of behavior that  
24 you describe in paragraph 12(e)?

25 **A.** No.



1     **Q.**    Do you have any evidence that the Chief of  
2     Police or Safety Director ever became aware of  
3     the type of conduct that you describe in  
4     paragraph 12(e) of your affidavit?

5     **A.**    No.

6     **Q.**    Besides the incident in the 1980s that you  
7     described, is there any other instance from the  
8     1980s that you can specifically recall where  
9     officers engaged in the type of behavior you  
10    described in paragraph 12(e) of your affidavit?

11    **A.**    No.

12    **Q.**    How did you learn that you were being  
13    removed from the Detective Bureau following the  
14    1980s incident that you described?

15    **A.**    The Commander came and moved me.

16    **Q.**    What is the Commander's name?

17    **A.**    Alfred Walton, A. Leonard Walton.

18    **Q.**    And what did Commander Walton tell you was  
19    the reason you were being removed from the  
20    Detective Bureau?

21    **A.**    That he didn't like the way that I ran the  
22    Detective Bureau and he had somebody that he  
23    wanted to give the job to and that was his  
24    prerogative to do what he wanted to do.

25    **Q.**    You understood this to be as a result of

1 your objecting to the interrogation of these  
2 juveniles?

3 **A.** Oh, yeah, yeah.

4 **Q.** Any other instances later from the 1980s or  
5 even later in your career, where officers  
6 engaged in the type of conduct you describe in  
7 paragraph 12(e) of your affidavit?

8 **A.** No. Oh, yeah, yeah. It was a detective by  
9 the name of -- they call him The Black Bull, The  
10 Black Bull. He worked in the Sixth District, I  
11 was the Commander there, and he had a habit of  
12 bringing folks in and talking to kids, like  
13 he -- without their parents there. I stopped  
14 that practice when I got there. No more of  
15 this, that is the end of it.

16 **Q.** Okay.

17 **A.** Another guy, his name was Joe Williams, he  
18 would take his belt and physically whip  
19 juveniles in the police station, and I stopped  
20 that practice in the Sixth District. No parents  
21 were around in either one of these situations.  
22 I brought it to an end when I got to be the  
23 Commander of the Sixth District. This was  
24 between -- up to 2001 I got there, five years  
25 prior to 2001, in the area there.

1     **Q.**     So the instance that you just described  
2     occurred between 1995 and the year 2001?

3     **A.**     Yes.

4     **Q.**     What was the officer's name that you  
5     said --

6     **A.**     Amos Floyd is The Black Bull. His name was  
7     Amos Floyd.

8     **Q.**     Amos Floyd?

9     **A.**     Um-hum.

10    **Q.**     And are you able to identify the specific  
11    instance or instances where Officer Floyd  
12    engaged in this behavior?

13    **A.**     Yes.

14    **Q.**     Can you tell me the name of the juveniles?

15    **A.**     No.

16    **Q.**     The name of the criminal case?

17    **A.**     No.

18    **Q.**     But this is something you witnessed --

19    **A.**     You hear things. My office in the building  
20    was down the hall from him. I walked into the  
21    office, you would see him there, you know.

22    "Where is the kid's parents at?" "Well --"

23            "Get him out of here."

24            He was a notorious crime fighter, and that  
25    was what he did.

1     **Q.**     How many occasions did you see Officer  
2     Floyd interrogating children without their  
3     parents there?

4     **A.**     Just that one time. I stopped it.

5     **Q.**     As the Commander, you put a stop to that  
6     behavior?

7     **A.**     Yes.

8     **Q.**     Do you have any firsthand knowledge that  
9     Officer Floyd engaged in that behavior anytime  
10    prior to that?

11    **A.**     No.

12    **Q.**     And Officer Williams, you said struck  
13    children with a belt?

14    **A.**     Oh, yeah, yeah. He would give them a real  
15    thrashing. And he was so good, he was so good  
16    that the parents would bring their kids to the  
17    police station, grandmothers, mothers, with  
18    their husband, "Would you whip my son for me?"

19            He would put it to them, get the belt and  
20    just whip them.

21    **Q.**     Did you ever witness Officer Williams do  
22    this?

23    **A.**     Yes.

24    **Q.**     How many occasions?

25    **A.**     I saw him do it like four or five times.

1 Some of these the parents were there and the  
2 last one I saw, the parents wasn't there.

3 Q. And what were the dates that you witnessed  
4 these four or five occasions?

5 A. I can't tell you the dates. I am just  
6 telling you, I was the Commander of the Sixth  
7 District, up to 1991, so we go back five years  
8 from 1991, in that area there.

9 Q. You mean 2001?

10 A. Sorry, 2001.

11 Q. So was that the beginning of your tenure as  
12 the Commander when you witnessed this?

13 A. At the beginning, yeah, at the beginning.

14 Q. On the four or five occasions when you saw  
15 Officer Williams striking children with a belt,  
16 what did you do as the Commander?

17 A. Nothing. The mothers were standing there,  
18 allowing him to do it. Then I got tired of it  
19 happening, because it was going on so regularly,  
20 I finally put a stop to it. He was given  
21 permission by the parents to whip the kids.

22 Q. Mr. Tell, you were the Commander of the  
23 Sixth District.

24 A. Yeah.

25 Q. Did you believe that Officer Williams

1 striking children with a belt was misconduct?

2 **A.** The last one, that he was beating the kid  
3 without the parent being there -- you can kind  
4 of generally say misconduct, but it was done  
5 with the permission of the parents who were  
6 standing there.

7 **Q.** Even if the parents were there, wouldn't  
8 you agree that a police officer striking a child  
9 with a belt is misconduct?

10 **A.** If you want to say misconduct, yes.

11 **Q.** And why did you not cause discipline to  
12 occur when you witnessed Officer Williams  
13 engaging in this misconduct?

14 **A.** Because he was doing it with the permission  
15 of the parents.

16 **Q.** And you felt that as long as the parents  
17 gave their permission, that this is misconduct  
18 that should not subject Officer Williams to  
19 discipline?

20 **A.** That's correct.

21 **Q.** But on the one occasion, when you saw  
22 Officer Williams striking a child with a belt  
23 without the parents being there or giving  
24 permission, that was misconduct that should have  
25 subjected Officer Williams to discipline?

1     **A.**     Yes, it should have.

2     **Q.**     Did you cause discipline to be preferred  
3     against Officer Williams?

4     **A.**     No.

5     **Q.**     Why not?

6     **A.**     Because I ended the process.

7     **Q.**     And you felt that that was all that was  
8     necessary?

9     **A.**     That's correct. I gave him a verbal  
10    warning, never saw the conduct happen again. He  
11    would be subject to discipline. I never saw it  
12    again.

13   **Q.**     I have a little ways to go here still.  
14    Does anybody need a break?

15                   **MR. FUNK:**               I can use a break.

16                   **MR. MALLAMAD:**        Okay. We will take  
17    a short break.

18                   (Thereupon, a recess was taken.)

19   **BY MR. MALLAMAD:**

20   **Q.**     Mr. Tell, aside from the incidents  
21    involving Officers Floyd and Williams that you  
22    described, are you aware of any other instance  
23    where an officer engaged in the conduct that you  
24    describe in paragraph 12(e) of your affidavit?

25   **A.**     No.

1     **Q.**     Did you ever make the Chief of Police or  
2     Safety Director aware of the conduct of Officers  
3     Floyd and Williams?

4     **A.**     No.

5     **Q.**     Why not?   Why not?

6     **A.**     Because I handled the discipline, I handled  
7     the incident.

8     **Q.**     And you thought --

9     **A.**     I gave him a warning, if it happened again,  
10    charges.

11    **Q.**     And you felt no need to communicate what  
12    you witnessed to the Chief of Police or Safety  
13    Director?

14    **A.**     No.

15    **Q.**     Mr. Tell, in paragraph 14(a) of your  
16    affidavit you state that "Many older white  
17    police officers were racially biased at the  
18    time," and you are referring to from the  
19    previous paragraph, the 1970s.

20    **A.**     Yes.

21    **Q.**     Do you see that?

22    **A.**     Yes.

23    **Q.**     Can you tell me every instance where this  
24    conduct occurred?

25    **A.**     How much time do we have, all day?



1     **Q.**     I am here to find out what information you  
2     have about the contents of your affidavit and  
3     other things.

4     **A.**     One, as a black police officer, I was not  
5     allowed to work on a police car in Fourth  
6     District past -- west of 116th and Kinsman,  
7     north of Buckeye, south of Broadway, South  
8     Broadway.

9             I was assigned to beats in the Fourth  
10    District in a predominantly black neighborhood.  
11    I couldn't work in a white neighborhood. This  
12    is the reason I was assigned to these, because  
13    these were black neighborhoods and poor white  
14    neighborhoods.

15            We had certain cars we could work on in the  
16    police station. We couldn't work in certain  
17    areas as black police officers.

18            Black police officers weren't given the  
19    opportunity to pick their partners, we weren't  
20    given an opportunity to get off early. As a  
21    matter of fact, my son was born in 1960 -- 1970.  
22    I wasn't allowed to go to the hospital to see my  
23    wife when my son was born, because they said  
24    they didn't have enough cars in the police  
25    station that day.

1           When I got back to the police station with  
2     the box of cigars saying it was a boy, there  
3     were four police cars left in the police  
4     station, all white officers that had been  
5     released to go home. That is bias toward me.

6           We weren't given promotions in those days.  
7     We would receive harsher penalties than white  
8     officers did.

9           We were not given time off work for off  
10    days, like white officers were. We had to sue  
11    in Federal Court for right to be promoted.  
12    Judge Thomas was the judge that handled that  
13    case in Federal Court.

14          I saw instances where white officers would  
15    bring a black subject into the police station,  
16    hold his hands while white female police  
17    officers would beat him in the station. It was  
18    bias. These are things that I saw.

19          I can keep going, but I think that is  
20    enough right now.

21    **Q.**   Well, if you have more, again, I am looking  
22    for the basis for your statement in paragraph  
23    12 -- 14(a) of your affidavit.

24                   **MS. WANG:**                   Objection, asked  
25    and answered. He just gave you a bunch of

1 examples.

2 **BY MR. MALLAMAD:**

3 **Q.** Do you have any other examples besides what  
4 you gave me?

5 **A.** I am going to leave it there.

6 **Q.** The person -- you said that black officers  
7 weren't allowed to work in certain areas of the  
8 Fourth District?

9 **A.** That's correct.

10 **Q.** Besides yourself --

11 **A.** Wait a minute. Let's go to the Sixth  
12 District too. I am going to go Sixth District.  
13 Black officers were not allowed to work  
14 St. Clair, 152nd Street, west of 152nd Street,  
15 St. Clair east to the city line of Euclid to the  
16 lake. This is 1995 when I took over Sixth  
17 District. I changed that.

18 **Q.** So the --

19 **A.** They couldn't patrol neighborhoods in the  
20 certain areas in north Collinwood, they weren't  
21 allowed to patrol those areas.

22 **Q.** And that occurred in --

23 **A.** 1995.

24 **Q.** When you came in as the Commander, you  
25 changed that?

1     **A.**     Yes.

2     **Q.**     As to the 1970s, aside from yourself, can  
3     you identify for me any other black officers who  
4     weren't allowed to patrol in other areas of the  
5     Fourth District?

6     **A.**     Grover Collins, Frank Bibb, William  
7     Stanley, William Robinson, Melvin Bankhead.  
8     Every black officer that was assigned to the  
9     police station could not. I named about all of  
10    them then. There weren't that many of us there.

11    **Q.**     In the Fourth District?

12    **A.**     Fourth District, that's correct.

13    **Q.**     Who made the decision as to where they  
14    couldn't patrol or work?

15    **A.**     The Deputy Chief down through the platoon  
16    Sergeant, Deputy Inspector, or the Inspector  
17    down to the platoon Sergeant.

18    **Q.**     Back in the '70s, the districts were run by  
19    Deputy Inspectors?

20    **A.**     That's correct, or an Inspector.

21    **Q.**     Who was that person?

22    **A.**     Smith. Last name was Smith.

23    **Q.**     Do you know a first name?

24    **A.**     No.

25    **Q.**     Do you have any firsthand knowledge that

1 the Chief of Police or Safety Director were  
2 aware of what the Deputy Inspector Smith was  
3 doing?

4 **A.** Yeah, because we had to sue him in Federal  
5 Court to get things.

6 **Q.** I am talking about being able to patrol in  
7 certain areas?

8 **A.** Yes, because they allowed it to happen.  
9 They were aware of it. They allowed it to  
10 happen. If they weren't aware of it, it  
11 wouldn't have ever happened.

12 **Q.** Was the limitations on where black officers  
13 could patrol the Fourth District part of the  
14 lawsuit before Judge Thomas?

15 **A.** No, promotions were.

16 **Q.** I am talking just right now about what you  
17 said were restrictions on where black officers  
18 could patrol or work in the Fourth District in  
19 the 1970s.

20 **A.** Yes.

21 **Q.** My question to you is, do you have any  
22 firsthand knowledge that the Police Chief or  
23 Safety Director were aware of what Deputy  
24 Inspector Smith was doing?

25 **A.** They had to have knowledge, because it

1 happened.

2 **Q.** But do you have any firsthand knowledge  
3 that they, in fact, knew?

4 **A.** Yes.

5 **Q.** What is your firsthand knowledge?

6 **A.** That I was assigned to that area, and they  
7 knew I was assigned to that area. They reviewed  
8 reports where everybody was assigned to in the  
9 districts in the City of Cleveland, so they knew  
10 where I was working at.

11 **Q.** In the 1970s the Police Chief and Safety  
12 Director would review where officers were  
13 assigned?

14 **A.** Yes. Even today, they know where officers  
15 are assigned to.

16 **Q.** The same, with respect to the opportunity  
17 to pick partners, would it be the same officers  
18 that you previously identified for me whose  
19 territory was restricted in the Fourth District?

20 **A.** The reason I got on the Cleveland Police  
21 Department, because Carl Stokes at that time  
22 made it a business to integrate every police car  
23 in the Cleveland Police Department because of  
24 the bias.

25 I got on the police department, the black

1 officer, in order to integrate the police  
2 department. I was in charge to integrate the  
3 Cleveland Police Department.

4 Q. With respect to the opportunity to pick  
5 partners and getting off duty, were those  
6 decisions that were also made by Deputy  
7 Inspector Smith?

8 A. He knew of what was going on, because it  
9 happened, it happened.

10 Q. Under his command?

11 A. Yes.

12 Q. Do you have any firsthand knowledge that  
13 the Police Chief or Safety Director also knew of  
14 the problems with black officers being able to  
15 pick their partners and issues of them not being  
16 able to get off duty when they wanted to?

17 A. Can I say yes and no? No, I don't. But I  
18 feel he knew, I feel he knew.

19 Q. But you have no firsthand knowledge that  
20 they, in fact, knew?

21 A. No.

22 Q. Can you tell me instances where black  
23 officers did, in fact, receive harsher penalties  
24 than white officers for the same misconduct?

25 A. Oh, yeah. Can I give you names? No, I

1 can't. But I know it happened.

2 Q. The occasion where the black suspects were  
3 beaten by white officers in the Fourth District,  
4 that happened in the 1970s?

5 A. Yeah, yeah.

6 Q. And can you tell me the officers that have  
7 engaged in that misconduct?

8 A. Koblenski and Kornowski. A man came into  
9 the station because he was in a bar on Fleet and  
10 Broadway, and he made a pass at a white barmaid,  
11 and so Kornowski and Koblenski slapped the man.  
12 The man subsequently arrived at the police  
13 station to file a complaint on these two  
14 officers.

15 Well, the desk Sergeant called them in and  
16 said, "Hey, there is a man out here to file a  
17 complaint on you." They immediately went out in  
18 the hallway, grabbed the guy, brought him in and  
19 beat him right there in the station in front of  
20 the inspector, and threw the guy in jail.

21 Q. Okay.

22 A. That is why today you can make a police  
23 report, a complaint against a police officer  
24 anywhere in the City of Cleveland, you just  
25 don't have to go to the police station, because



1     conduct like that was happening in those days.

2     **Q.**   Any other occasions -- I am sorry. You  
3     witnessed that beating; is that correct?

4     **A.**   Yeah.

5     **Q.**   Any other occasions in the Fourth District  
6     in the 1970s, where you witnessed a black  
7     suspect being beaten by white officers?

8     **A.**   One other incident where a guy robbed a bar  
9     on Buckeye. In the bar, he shot and killed a  
10    police officer, shot a couple of other people in  
11    the bar and left.

12           An hour later, he was apprehended, brought  
13    to the police station. When he got to the  
14    police station, the Commander came down and  
15    said, "Soften him up before you send him  
16    downtown."

17           At that time the guy was administered a  
18    severe beating in the driveway of the Fourth  
19    District police station, which is located at  
20    131st and Marston at that time.

21           Eighteen months later, they got the real  
22    suspect. The guy they beat was the wrong man;  
23    he was found with identification of the dead  
24    police officer on him. To this day, I don't  
25    know how he got it. But he did take a terrible

1     whipping that day at the police station.

2     **Q.**     Any other instances that you witnessed in  
3     the Fourth District in the 1970s, where black  
4     suspects were beaten by white officers?

5     **A.**     They are too numerous to go through. I  
6     have been to the First District and seen things  
7     happen between white officers and white people,  
8     you know. It is a different culture.

9             I have seen as a Sergeant, Sergeant in the  
10    First District, where a white officer actually  
11    stood on a man's head. Just stood on his head,  
12    you know, and wiggle under his feet. I never  
13    saw anything like that happen before in my  
14    career. I saw it there.

15            Things happen, different type of the way  
16    they arrested people. When I was there, if you  
17    went to a white person's house, the guy would  
18    come out and tell the police, "Look, would you  
19    go around the corner and I will show up."

20            They would go around the corner, five  
21    minutes later, the guy run through the parking  
22    lot, through the backyard and get in the police  
23    car and drive off. He didn't want to be  
24    embarrassed in front of his neighbors.

25            By the same token, you go to the east side.

1 They drag the guy out of the house, they don't  
2 care who is looking, he got to go to jail.  
3 These are the type of things I saw in my career  
4 and the way things were enforced on the  
5 Cleveland Police Department.

6 Q. I know you were on the department for a  
7 long time.

8 A. Yes.

9 Q. I am trying to learn what firsthand  
10 knowledge you have about specific instances.

11 A. There they go.

12 Q. So besides the two that you have described  
13 that happened in the Fourth District, do you  
14 have any firsthand knowledge of other specific  
15 instances where black suspects were beaten by  
16 white officers?

17 A. I saw a guy at 7308 Central, the bar they  
18 call the Sky Bar, it is no longer there, the  
19 area is torn down, where a black man was inside  
20 the bar and he was picking with the people in  
21 the bar. And he got into it, and he ran outside  
22 and he was able to lock the door so the people  
23 could not get out of the bar.

24 So they called the police. Well, the  
25 police came there, and this innocent guy who was

1 being assaulted by the people in the bar, was  
2 standing outside.

3 So the police was taking the guy to the car  
4 to actually take him to safety, and he threw the  
5 two policemen down on the ground and took off  
6 running. They caught him and brought him back  
7 and beat him and everything and put him in the  
8 car and drove away. Afraid of going to jail,  
9 but he actually wasn't going to jail, he just  
10 was afraid. Things like that that I saw.

11 **Q.** Any other specific instances that you have  
12 firsthand knowledge of, where black suspects  
13 were beaten by white officers?

14 **A.** Even as a kid I saw it. Because I was  
15 raised up in a black neighborhood. It happened.  
16 I just don't want to sit here and keep going  
17 through everything I saw. I witnessed it.

18 **Q.** I understand you don't want to. This is  
19 our one opportunity to speak to you about it.

20 **A.** I gave you what I know. That is it.

21 **Q.** So on those occasions -- you described for  
22 me three occasions. Did you do anything to  
23 intervene when those instances occurred?

24 **A.** No.

25 **Q.** Why not?

1     **A.**     Just odds were against me if I had  
2     intervened. There was too many white police  
3     officers that were there for me to do anything,  
4     for fear for my safety.

5     **Q.**     Did you ever report up through the chain of  
6     command what you witnessed?

7     **A.**     No.

8     **Q.**     Why not?

9     **A.**     Chain of command was there participating in  
10    it.

11    **Q.**     That was the head of the district, right?

12    **A.**     Yeah.

13    **Q.**     Did you ever report above his head?

14    **A.**     No.

15    **Q.**     Why not?

16    **A.**     Same thing. You don't want to get yourself  
17    in any difficulty with the people you have. I  
18    have to determine and depend on that guy to  
19    protect me if I get into something. They will  
20    tell you, you know, "You might get in trouble,  
21    man, you know, you don't want to be out there by  
22    yourself." You look at your own safety when you  
23    take a stance like that.

24    **Q.**     Mr. Tell, do you have any evidence that the  
25    Police Chief or Safety Director had actual

1 knowledge of these three incidents that you  
2 described?

3 **MR. GILBERT:** When you say  
4 evidence, what do you mean?

5 **BY MR. MALLAMAD:**

6 **Q.** Do you have any knowledge --

7 **MR. GILBERT:** Circumstantial,  
8 direct, personal? There is all kinds of  
9 evidence. It is a term of art.

10 **BY MR. MALLAMAD:**

11 **Q.** Do you know whether the Police Chief or  
12 Safety Director knew of these three instances?

13 **A.** I could not tell you, no. I don't know if  
14 he knew it or not.

15 **Q.** In paragraph 14(c) of your affidavit you  
16 state, "When black officers were present at the  
17 scene, white officers engaged in less frequent  
18 and/or less severe violent behavior toward black  
19 suspects."

20 **A.** Yes.

21 **Q.** Can you tell me every instance where this  
22 conduct occurred?

23 **A.** No, I can't tell you every instance. But I  
24 can tell you that it happened, and that is why  
25 we were put on the police department, to stop

1 this kind of incident.

2 You knew that, and they knew that when you  
3 came around, they couldn't do anything. I can't  
4 give you names and dates. But I can tell you  
5 about things that I saw when you came in the  
6 police station, they seen you coming, they  
7 stopped.

8 **Q.** Those are the instances I want to know  
9 about.

10 **A.** I can't tell you the dates and everything.  
11 But I can tell you that is what happened. That  
12 was the culture. I can tell you about the  
13 culture.

14 **Q.** Even if you can't tell me the names and  
15 dates, do you have a recollection of instances  
16 that fall into the category you describe in  
17 paragraph 14(c)?

18 **A.** Yes, I remember coming to the police  
19 station, but I can't tell you who it was, what  
20 they were doing, I am just telling you, police  
21 officer in general, when you came in, if they  
22 were doing something, they would stop when you  
23 came in.

24 **Q.** But you don't have a recollection of any  
25 particular incident right now; is that correct?

1     **A.**     No.

2     **Q.**     That is correct?

3     **A.**     That's correct.

4     **Q.**     I am not going to read paragraph 14(d) into  
5     the record, because it is very long. If you  
6     could take a look at that, Mr. Tell, and tell me  
7     when you are done reading paragraph 14(d).

8     **A.**     I just explained it, I just explained it  
9     just earlier, about they would let them go to  
10    the neighborhood and come back and a black  
11    person they wouldn't. They would take them out  
12    of the house. I explained that one. I answered  
13    the question already.

14    **Q.**     So with respect to paragraph 14(d), can you  
15    tell me every instance that you have knowledge  
16    of that fits the category of behavior that you  
17    describe in paragraph 14(d)?

18    **A.**     I just told you. I worked in the First  
19    District as a Sergeant, and I observed that  
20    conduct, where we went to put a white man in  
21    jail, and they allowed him to go to the next  
22    street and turn himself into the police.

23            I have been in the district where we go to  
24    a black neighborhood and a black person didn't  
25    get that same treatment.



1     **Q.**     So the one occasion happened in the First  
2     District?

3     **A.**     That's correct.

4     **Q.**     It is a white suspect, he was permitted to  
5     go turn himself in?

6     **A.**     On the next street, yeah, um-hum.

7     **Q.**     And do you have any other instances that  
8     fit the behavior you describe in paragraph  
9     14(d), besides that one occasion in the First  
10    District?

11    **A.**     I know of incidents where white women work  
12    at Cleveland Clinic, would drive down Carnegie  
13    and go through Chester or Carnegie, go through  
14    lights. The police officer would stop them and  
15    ask them, hey -- just a second. A police  
16    officer would stop them, "Where you work at?"

17             "Well, I work at Cleveland Clinic."

18             "Go ahead."

19             Black women come down the street and go  
20    through a light, they give them a ticket.

21             I had an incident where a black woman -- a  
22    white woman's car broke down, and a police  
23    officer came up to help her fix her car.

24             The same police officer I am working with,  
25    we ride down the street and we see a black woman

1 working, stopped in a car, "Let's help her out."

2 "She know how to fix her car. They do it  
3 in the neighborhood." That is what the guy told  
4 me. I am like, "You got to be kidding. Last  
5 week, we helped a white woman fix her car, but  
6 the black woman, you are going to say that."  
7 That is culture, they know how to fix their  
8 cars. These are the types of things that  
9 happened with me, with people. I looked at the  
10 guy, I go, "You know, you got to be kidding."

11 Q. Any other instances that fall into the  
12 category you are describing in paragraph 14(d)?

13 A. No.

14 Q. When did the incident in the First District  
15 happen with the white man who was allowed to  
16 turn himself in?

17 A. 1980.

18 Q. And how many occasions did you witness  
19 white women who worked at the Cleveland Clinic  
20 be stopped by the police, but were not given  
21 tickets?

22 A. Pardon me?

23 Q. Go ahead. Do you need to get that?

24 A. No, I am good.

25 Q. On how many occasions did you witness white

1 women who worked at the Cleveland Clinic, be  
2 stopped by police officers, but not be given  
3 tickets?

4 **A.** Numerous occasions.

5 **Q.** Can you estimate for me?

6 **A.** Thirty or more.

7 **Q.** And is it because you were also in the  
8 police car at the time?

9 **A.** Yeah, or Patrol Sergeant on duty observing  
10 what is happening.

11 **Q.** You were the Patrol Sergeant for these  
12 officers?

13 **A.** Yeah.

14 **Q.** How many occasions did you witness officers  
15 stop black women who engaged in the same  
16 vehicular violation and give tickets?

17 **A.** Fifteen or more.

18 **Q.** What is the period of time that we are  
19 talking about, where you witnessed these  
20 incidents?

21 **A.** In the '80s, when I was Sergeant, or --  
22 yeah, in the '80s, as a Sergeant, yeah.

23 **Q.** That is Sergeant of the --

24 **A.** Fifth District.

25 **Q.** Fifth District. Okay.

1           And the occasion where you witnessed a  
2   white woman's car had mechanical trouble and it  
3   was fixed or she was helped by the officer, but  
4   the black woman's car the following week --

5   **A.**   Same guy, same guy.

6   **Q.**   When did that happen?

7   **A.**   That happened in 1970.

8   **Q.**   Do you have any firsthand knowledge that  
9   the Police Chief or Safety Director ever became  
10  aware of these instances you just described?

11  **A.**   No.

12  **Q.**   Mr. Tell, in paragraph 15(a) of your  
13  affidavit you state, "It was well known among  
14  police officers and detectives at the time,"  
15  referring to the 1970s, "that they could get  
16  away with serious misconduct without being  
17  disciplined."

18           Do you see that?

19  **A.**   Yes.

20  **Q.**   Tell me every instance where that occurred.

21  **A.**   Once I saw the police officers going to a  
22  numbers house. They hadn't been paid off by the  
23  police at that time. They were Vice Sergeants,  
24  vice police officers. So they would go in and  
25  they would tear the place up.

1           And next week they come back, they would  
2   get the payoff. They would defecate -- in those  
3   days, some of those places had potbelly stoves  
4   where they put coal and wood in it. They would  
5   urinate on the coal or the wood, so that the  
6   next time that these guys put their wood or coal  
7   in the stove, they would smell it and that would  
8   remind them that you didn't pay the police last  
9   month, so you need to get a reminder. These are  
10  the types of things that they would do, and they  
11  got the payoffs.

12   **Q.**   Any other instances that fit the behavior  
13   that you describe in paragraph 15(a)?

14   **A.**   I seen things happen, but I can't give you  
15   every incident. But I can just tell you that it  
16   happened. That one incident I have there.

17   **Q.**   I want to know today, since this is our  
18   opportunity to talk to you, what instances you  
19   can describe for me that you have firsthand  
20   knowledge about that fit the behavior that you  
21   identify in paragraph 15(a).

22   **A.**   One time we were stopping cars in the  
23   neighborhood, a police, they call them a  
24   sobriety checkpoint.

25           And the police would get in the car in

1 order to make an arrest, they would do something  
2 to the car, break a light out on the car. "Hey,  
3 man, your light is broken." And they would tow  
4 the person's car.

5 Have a place broken into, Fourth District,  
6 a TV store was broken into, and the police would  
7 respond and they come out carrying TVs and going  
8 to a liquor store, they are carrying out liquor.  
9 Another place in the Fifth District, the police  
10 went in and filled their pockets up with things  
11 out of the store.

12 Another incident in the Sixth District  
13 where a lady reported her wedding ring missing.  
14 The policeman was given numerous opportunities  
15 to return the ring, because we knew it was  
16 stolen, even told where to put the ring, to find  
17 it. Refused to, was searched, the ring was  
18 found on his person.

19 Now, he was disciplined, he was  
20 disciplined, put out of the police department.

21 But these are the types of things that  
22 happened. You see it in neighborhoods where  
23 they would raid places and put folks in jail or  
24 take one person and not take everybody, and  
25 things continued to operate as long as they were

1     able to put somebody in jail to justify the  
2     operations.

3     **Q.**    How many of those instances can you detail  
4     for me?

5     **A.**    I just did.

6     **Q.**    Any other instances that fit the category  
7     of 15(a)?

8     **A.**    That is it.

9     **Q.**    The vice officers who in the 1970s urinated  
10    in the potbelly stove, what district was that?

11    **A.**    Fifth.

12    **Q.**    The stopping cars, the sobriety checkpoint  
13    and then breaking a part of the car to justify  
14    the tow, what district was that?

15    **A.**    Fifth.

16    **Q.**    When was that?

17    **A.**    While I was Sergeant there.

18    **Q.**    So --

19    **A.**    In the '80s.

20    **Q.**    In the '80s?

21    **A.**    Um-hum.

22    **Q.**    The breaking and entering where the police  
23    stole the TV, when was that?

24    **A.**    Fourth. That was back in the '70s.

25    **Q.**    How about the B&E where the police stole

1 the liquor?

2 **A.** That was in the '70s.

3 **Q.** Fourth District?

4 **A.** Yes. That was a truck. I am talking about  
5 a truck of liquor. That was not one bottle.  
6 That was a truck of liquor.

7 They got a guy transporting liquor, and  
8 they did. You know, another occasion happened  
9 in the Fifth District, a guy named Bob Ellis  
10 owned a bar, and the guy that was bringing  
11 illegal liquor into the City of Cleveland, into  
12 Ohio from out of town, had an accident at 101st  
13 and Quebec, and the wires fell down on the car.

14 The police left the man in the car and went  
15 in and took all the liquor out and took it to  
16 Bob Ellis, before they got the guy out of the  
17 car. Bob Ellis gave them money for protecting  
18 his illegal liquor.

19 But they didn't care about the guy that was  
20 laying there with electric sparking on the car  
21 and everything. These were the type of things  
22 they would do. That was illegal for them to do  
23 that. You take care of the person first. But  
24 they didn't care, they mainly wanted to get paid  
25 off by Bob.



1     **Q.**    You said that in the Fifth District there  
2     was an occasion where police officers stole from  
3     a store?

4     **A.**    Yes.

5     **Q.**    When was that?

6     **A.**    That was -- I was a patrol officer then.  
7     That was at East 83rd and Carnegie.

8     **Q.**    When was that?

9     **A.**    In the '80s -- in the '70s, '70s.

10    **Q.**    The stolen ring that resulted in the  
11    termination of a police officer --

12    **A.**    That was in the '80s, Sixth District.

13    **Q.**    Was that officer white or black?

14    **A.**    White.

15    **Q.**    And the Bob Ellis' illegal liquor, where  
16    was that and when was that?

17    **A.**    That was in the '80s on Quincy Avenue.

18    **Q.**    What district?

19    **A.**    Fifth.

20    **Q.**    Any other instances that fall into the  
21    category you describe in paragraph 15(a)?

22    **A.**    Ron Turner worked for me, a policeman named  
23    Ron Turner. He worked for me. Ron would put  
24    people in jail and bring -- this is the Fourth  
25    District -- and he would bring in the things,

1 drugs, money, stolen goods, and when he come  
2 back for his case, the police had stole them,  
3 they were gone.

4 And the guy who did it, was really doing it  
5 to him, was a guy by the name of Lieutenant  
6 Seidel. He was the main guy that was picking  
7 with this guy. And it got so bad, that I  
8 allowed him to make his own property book for  
9 his own protection.

10 But that was illegal, what they were doing  
11 to this guy. They eventually ran him off of the  
12 Cleveland Police Department, the way he was  
13 treated.

14 **Q.** Any other instances that fall in the  
15 category you describe in 15(a)?

16 **A.** That is about it.

17 **Q.** You were the Commander when Lieutenant  
18 Seidel was stealing --

19 **A.** No, I was the Vice Sergeant in the Fourth  
20 District. I didn't say he stole it. He allowed  
21 it to happen.

22 **Q.** And when was that?

23 **A.** 1980 to '83.

24 **Q.** The things that you just described that fit  
25 the category of paragraph 15(a), did you ever

1 report this misconduct to any of your  
2 supervisors?

3 **A.** I reported Seidel to Inspector Balaga.

4 **Q.** What happened to Lieutenant Seidel as a  
5 result of you reporting him?

6 **A.** Balaga put it to him, discipline-wise,  
7 verbally, verbally chewed him out and made him  
8 leave Ron alone.

9 **Q.** Did you report any of the other instances  
10 you just described that fit the category of  
11 paragraph 15(a)?

12 **A.** The guy that I saw coming out of the store  
13 on Carnegie, I made him take it back. I was  
14 making a report that day. "Take it back,  
15 because I am not going to have anybody accuse me  
16 of stealing anything. Take it back." I made  
17 him take it back in there.

18 **Q.** You did not report his misconduct though,  
19 to your superiors?

20 **A.** No, he took it back.

21 **Q.** Why didn't you report him?

22 **A.** He was the son of a powerful police  
23 Lieutenant. I didn't want no problem with the  
24 guy. "Just take it back, man." He eventually  
25 worked for the Cleveland Browns and all those

1 folks later on. But I made him take it back.

2 Q. What was his name?

3 A. Caroselli.

4 Q. And I am sorry, the other occasions that  
5 you have described that fit paragraph 15(a), did  
6 you ever report any of those to your superiors?

7 A. When he took all the liquor, the superior  
8 was involved in it. When they took all the  
9 liquor in the truck, the superiors were there  
10 passing it out to everybody, their friends.

11 Q. Did you ever report it to their superiors?

12 A. Uh-uh.

13 Q. Why not?

14 A. Same reason, you know. If I get in some  
15 trouble, I want somebody to look out for me.

16 Q. Of the things you described in paragraph  
17 15(a), do you have any firsthand knowledge that  
18 the Chief of Police or Safety Director were ever  
19 made aware of these instances of misconduct?

20 A. No.

21 MR. MALLAMAD: Those are all my  
22 questions for now. So I will pass it on to  
23 Mr. Funk. Thank you, Mr. Tell.

24 MR. GILBERT: Just a 30 second  
25 break.

1 (Thereupon, a recess was taken.)

2 EXAMINATION

3 **BY MR. FUNK:**

4 **Q.** Mr. Tell, my name is Stephen Funk, and I  
5 represent the individual Defendants and the  
6 estate Defendants in these two actions. I just  
7 have some follow-up questions for you.

8 As I understand it, you don't know Ricky  
9 Jackson?

10 **A.** No.

11 **Q.** And you don't know Kwame Ajamu?

12 **A.** No.

13 **Q.** And you don't know Wiley Bridgeman?

14 **A.** No.

15 **Q.** You have never met or talked to them?

16 **A.** Never.

17 **Q.** And an investigator contacted you. Did  
18 that investigator tell you what your alleged  
19 role was in the investigation of the Harold  
20 Franks murder?

21 **A.** No, he just told me that my name was given  
22 to a detective, homicide detective or detective,  
23 and it was in the file.

24 **Q.** You don't have any memory of being involved  
25 in the investigation of Harold Franks' murder in

1 any way?

2 **A.** No, like I say, I put things down, write  
3 things down. Nothing in all of my stuff I have  
4 at home from back in the day refreshed my memory  
5 on this guy and all. I told her that. I  
6 couldn't remember a thing.

7 **Q.** In 1975, you don't have any memory of ever  
8 being involved in any homicide investigations at  
9 all?

10 **A.** No.

11 **Q.** At that time, you were working in the Auto  
12 Theft Unit?

13 **A.** Yes, I worked in Auto Theft Unit. And also  
14 I work for the Fairfax Security Patrol. That  
15 was an outside agency that was funded by the  
16 neighborhood that patrolled this area where the  
17 homicide happened at.

18 **Q.** So you don't really have any personal  
19 knowledge of anything relating to the  
20 investigation of Harold Franks?

21 **A.** No.

22 **Q.** Or the prosecution of Ricky Jackson, Wiley  
23 Bridgeman or at that time Ronnie Bridgeman?

24 **A.** No.

25 **Q.** I am going to give you some names of some

1 of the detectives and see if you know them. One  
2 is Sergeant Peter Comodeca.

3 **A.** I know him.

4 **Q.** What was your knowledge of  
5 Sergeant Comodeca?

6 **A.** He ran -- he was a detective, a Detective  
7 Sergeant.

8 **Q.** How did you know him?

9 **A.** Just by his name. He was a popular  
10 detective.

11 **Q.** Did you have occasion to work on an  
12 investigation with Sergeant Comodeca?

13 **A.** No.

14 **Q.** Did you have an occasion to work on  
15 anything work-related with Sergeant Comodeca?

16 **A.** No.

17 **Q.** You just knew him by reputation?

18 **A.** Pete Comodeca?

19 **Q.** Yes.

20 **A.** Yes.

21 **Q.** You knew him by reputation?

22 **A.** Yes.

23 **Q.** Were you aware of any misconduct or  
24 improper conduct by Sergeant Comodeca?

25 **A.** No.

1     **Q.**     Would you say that he had a reputation as  
2     being a good Sergeant?

3                     **MR. GILBERT:**             Objection.

4                     **THE WITNESS:**             Just popular, you  
5     know.

6     **BY MR. FUNK:**

7     **Q.**     Do you have any knowledge about Sergeant  
8     Comodeca being involved in any kind of  
9     wrongdoing?

10    **A.**     No.

11    **Q.**     And how long did you know Sergeant  
12    Comodeca?

13    **A.**     Oh, from when I got to the Cleveland Police  
14    Department until now, you told me about his  
15    name, I remember him.

16    **Q.**     Did you have any occasion to be involved in  
17    supervising Sergeant Comodeca in any capacity?

18    **A.**     No.

19    **Q.**     Do you know when Sergeant Comodeca retired  
20    from the police force?

21    **A.**     No.

22    **Q.**     Do you recall any other positions he had  
23    besides Sergeant?

24    **A.**     No.

25    **Q.**     Whether he ever became a Lieutenant?



1     **A.**     He might have been a Lieutenant at one  
2     time. Lieutenant. I couldn't tell you; I am  
3     not sure.

4     **Q.**     You don't know?

5     **A.**     I am not sure.

6     **Q.**     What about Eugene Terpay, do you know  
7     Eugene Terpay?

8     **A.**     I heard of him.

9     **Q.**     What have you heard of him?

10    **A.**     He was a homicide detective.

11    **Q.**     Have you heard any negative things about  
12    Eugene Terpay?

13    **A.**     No, they were just good detectives, good  
14    investigators. I forget, Terpay and Comodeca  
15    and I forget his partner. I know the partner  
16    name when you give it.

17    **Q.**     You knew him as a detective who worked in  
18    the Homicide Detective Bureau?

19    **A.**     Yes.

20    **Q.**     Do you know when Eugene Terpay retired as a  
21    detective?

22    **A.**     No.

23    **Q.**     Do you have any personal knowledge of  
24    Eugene Terpay's investigations?

25    **A.**     No.

1     **Q.**    Do you have any personal knowledge of any  
2     misconduct at all by Eugene Terpay at any time?

3     **A.**    No.

4     **Q.**    James Farmer?

5     **A.**    Farmer.

6     **Q.**    Detective James Farmer?

7     **A.**    Farmer, they were partners.

8     **Q.**    Did you know James Farmer?

9     **A.**    As being Terpay's partner and working the  
10    Homicide Unit, yes.

11    **Q.**    Other than that, did you have any personal  
12    knowledge of James Farmer's work as a detective?

13    **A.**    Good team of detectives, they were popular.  
14    You hear about guys. They were workers.

15    **Q.**    So they had a reputation of being good  
16    detectives?

17    **A.**    Yes.

18    **Q.**    And did you have any knowledge of any  
19    misconduct by James Farmer?

20    **A.**    No.

21    **Q.**    Did you know John Staimpel?

22    **A.**    Staimpel? Yeah. I think Staimpel worked  
23    in the Statement Unit. I think he is the guy  
24    that typed the statements for us.

25    **Q.**    You didn't know a John Staimpel that worked

1 in the Homicide Detective Bureau?

2 **A.** They might have put him in there. The name  
3 is familiar.

4 **Q.** Okay.

5 **A.** Yeah.

6 **Q.** So sitting here today, did you ever have  
7 any experience working with John Staimpel as a  
8 detective in the Homicide Detective Bureau?

9 **A.** No.

10 **Q.** When do you think that John Staimpel worked  
11 in the Statement Unit?

12 **A.** I think when I was an auto theft detective,  
13 I think Staimpel typed up things for us. I  
14 think that was his name.

15 **Q.** And do you recall what this Staimpel that  
16 you are referring to in the Statement Unit,  
17 looked like?

18 **A.** White male, glasses, that is about it.

19 **Q.** And at what time period would that have  
20 been, that you recall a Staimpel working in the  
21 Statement Unit?

22 **A.** From '71, in that area there, 1971,  
23 something like that.

24 **Q.** And I think I asked this before, I just  
25 want to make it clear. You don't have any

1 knowledge of a John Staimpel who worked in the  
2 Detective Bureau, homicide detective?

3 **A.** He might be the same guy.

4 **Q.** But you don't know?

5 **A.** No.

6 **Q.** You don't have any knowledge of John  
7 Staimpel's work as a detective in the Homicide  
8 Detective Bureau?

9 **A.** No.

10 **Q.** Any comments about the Staimpel you know  
11 that worked in the Statement Unit, about that  
12 detective doing anything wrong?

13 **A.** No.

14 **Q.** You don't have any information of any  
15 misconduct?

16 **A.** No.

17 **Q.** What about Detective Frank Stoiker, do you  
18 know Detective Frank Stoiker?

19 **A.** Heard his name, don't know him personally.

20 **Q.** You don't have any information about  
21 Detective Stoiker's work as a homicide  
22 detective?

23 **A.** No.

24 **Q.** Are you aware of any misconduct by  
25 Detective Stoiker?

1     **A.**     No.

2     **Q.**     Do you know a Detective Gerald Englehart?

3     **A.**     Don't know him. Name is familiar.

4     **Q.**     How do you know the name?

5     **A.**     Just by Englehart.

6     **Q.**     Do you know a Detective Gerald Englehart  
7     that worked in the Criminal Statement Unit?

8     **A.**     Who?

9     **Q.**     A Gerald Englehart that worked in the  
10    Criminal Statement Unit in the 1970s.

11    **A.**     Yeah. Yeah, he worked in the Statement  
12    Unit.

13    **Q.**     Did you have any experience working with  
14    Gerald Englehart in the Statement Unit?

15    **A.**     He took statements, when I brought in  
16    prisoners, he took statements. That is about  
17    all.

18    **Q.**     Every time that Gerald Englehart was  
19    involved in typing a statement for you, are you  
20    aware of any instance in which Gerald Englehart  
21    did anything wrong?

22    **A.**     No.

23    **Q.**     Was he somebody who took down the  
24    statements as they were being given by the  
25    witness?

1     **A.**     Oh, yeah, he was great. He was good, he  
2     was good at it.

3     **Q.**     Did you recall him doing anything where he  
4     didn't type down the statement correctly?

5     **A.**     No.

6     **Q.**     Do you recall Gerald Englehart typing down  
7     any statements in which the witness was not  
8     present?

9     **A.**     Not when I dealt with him, no.

10    **Q.**     You don't have any knowledge of any  
11    instance like that?

12    **A.**     No.

13    **Q.**     And do you have any other knowledge of  
14    Detective Englehart doing anything wrong?

15    **A.**     No.

16    **Q.**     Did you know a Detective Leo Allen?

17    **A.**     Yes.

18    **Q.**     How did you know Detective Allen?

19    **A.**     A personal friend of mine. We played  
20    softball together on the Cleveland Police  
21    Department.

22    **Q.**     When would that have been?

23    **A.**     I played ball in the '80s, '70s and '80s.

24    **Q.**     Would you have worked with Detective Allen  
25    on any investigations?

1     **A.**     No.

2     **Q.**     Do you have any personal knowledge of  
3     Detective Allen's work as a homicide detective?

4     **A.**     A good detective.

5     **Q.**     Is that based upon his reputation?

6     **A.**     Both.

7     **Q.**     Okay. And did you have occasion to observe  
8     his work as a police detective?

9     **A.**     Yes.

10    **Q.**     When would that have been?

11    **A.**     I used to see him at different homicides,  
12    he would come out and investigate a homicide on  
13    the streets when they were called in.

14    **Q.**     What would be the occasion for you to be  
15    there?

16    **A.**     Either I was the Sergeant or I was the  
17    Lieutenant and they were called to the scene of  
18    a homicide.

19    **Q.**     As Lieutenant of the Fourth District or  
20    Lieutenant of the Fifth District?

21    **A.**     That's correct.

22    **Q.**     And Detective Allen would be there in his  
23    role as the homicide detective?

24    **A.**     That's correct.

25    **Q.**     You didn't observe anything that Detective

1 Allen did wrong?

2 **A.** No.

3 **Q.** Do you have any knowledge of any misconduct  
4 by Detective Allen?

5 **A.** He struck out once in a baseball game.

6 **Q.** Where it mattered?

7 **A.** Yeah. No.

8 **Q.** How long have you known Detective Allen,  
9 would you say?

10 **A.** All the time on the Cleveland Police  
11 Department.

12 **Q.** When would you have first met him, back in  
13 the '70s or later than that?

14 **A.** Back in the '70s.

15 **Q.** You don't recall specifically when?

16 **A.** No.

17 **Q.** So you have known him then through the  
18 present day?

19 **A.** Yes.

20 **Q.** When was the last time you would have seen  
21 him?

22 **A.** Oh, years ago.

23 **Q.** Now, the Detective Bureau in 1975, do you  
24 know whether the Homicide Detective Bureau had  
25 African-American detectives at that time?



1     **A.**     Yes.

2     **Q.**     Did you know any of those?

3     **A.**     Yes.

4     **Q.**     What were the names of some of those?

5     **A.**     Harvey Beavers worked there. What is the  
6     guy's name? Harvey Beavers, you had Harvey.

7     **Q.**     There were a number of African-American  
8     detectives in the Homicide Bureau?

9     **A.**     There was, yes.

10    **Q.**     Do you have a rough estimate of how many?

11    **A.**     At least six.

12    **Q.**     Okay.

13    **A.**     At least six.

14    **Q.**     And would there be occasions where an  
15    African-American detective would be paired with  
16    a white detective investigating homicide?

17    **A.**     Very rarely, because you had a partner, you  
18    had a partner of the same race.

19    **Q.**     But you don't have any firsthand knowledge  
20    as to how they were assigned on individual  
21    homicides?

22    **A.**     You were given your assignments by your  
23    work shift. If you worked on the second shift,  
24    assignment came in, if you were up, when I say  
25    up, you were the next person in line. He got

1 the last one, you were up, you got the homicide.

2 Q. And how do you know that for homicide in  
3 the 1970s?

4 A. That was general practice in the detective  
5 bureaus altogether.

6 Q. You don't have any firsthand knowledge how  
7 that was done in homicide in 1975?

8 A. No.

9 Q. You mentioned the name of Melvin Bankhead?

10 A. Bankhead. He was a homicide detective too.

11 Q. He is an African-American detective?

12 A. Yes. Bankhead worked with me as a patrol  
13 officer and then he went on to be a homicide  
14 detective later.

15 Q. Okay.

16 A. Oliver was the name of another homicide  
17 detective at that time, George Oliver.

18 Q. Of the names you just mentioned, are any of  
19 those detectives still alive?

20 A. George Oliver might be still alive.  
21 Because his son was the Chief of Police of the  
22 Cleveland Police Department at one time. Harvey  
23 Beavers, did I give you that name?

24 Q. Yes, you did.

25 A. He is dead. Bankhead might still be alive.

1     **Q.**     I want to draw your attention to paragraph  
2     14 of your affidavit.  It is on page 4.

3     **A.**     Okay.

4     **Q.**     In paragraph 14(a) when you talk about many  
5     older white police officers were racially biased  
6     at the time, you don't have any information or  
7     knowledge that Eugene Terpay was racially  
8     biased?

9     **A.**     No.

10    **Q.**     You don't have any information or knowledge  
11    that James Farmer was racially biased?

12    **A.**     No.

13    **Q.**     And you don't have any information or  
14    knowledge that Frank Stoiker was racially  
15    biased?

16    **A.**     No.

17    **Q.**     And you don't have any information that  
18    John Staimpel was racially biased?

19    **A.**     No.

20    **Q.**     And you don't have any information that  
21    Gerald Englehart was racially biased?

22    **A.**     No.

23    **Q.**     And you don't have any information that Leo  
24    Allen was racially biased?

25    **A.**     No.

1     **Q.**    Are you aware of Sergeant Comodeca being  
2     racially biased?

3     **A.**    No.

4     **Q.**    Photograph 14(a) does not apply to any of  
5     those detectives that I just referred to?

6     **A.**    Right, yes.

7     **Q.**    With respect to paragraph 14 as a whole,  
8     none of these statements pertain to any  
9     specific -- pertain to the detectives that I  
10    just described?

11    **A.**    No.

12    **Q.**    I won't repeat their names again, but the  
13    ones I just told you?

14    **A.**    Yes.

15    **Q.**    Now, in paragraph 12(e), you indicated you  
16    were aware of other officers wrongfully  
17    conducting interrogations of juveniles.

18           Do you see that?

19    **A.**    Yes.

20    **Q.**    When you use the word "interrogation," do  
21    you see a difference between an interrogation of  
22    a suspect versus an interviewing of a witness?

23    **A.**    There is a difference between the two.

24    **Q.**    So when you use the word "interrogations,"  
25    what are you referring to in paragraph 12(e),

1 what is the difference?

2 **A.** Bringing kids in the police station and  
3 questioning them about things that is going on.

4 **Q.** So would that include a juvenile who is a  
5 suspect?

6 **A.** Yeah.

7 **Q.** What about, is there a difference between a  
8 juvenile who is a suspect versus a juvenile who  
9 is a witness?

10 **MR. GILBERT:** Objection,  
11 clarification.

12 **BY MR. FUNK:**

13 **Q.** In your mind, is there a difference when  
14 you are involved in questioning a suspect,  
15 versus questioning a witness?

16 **A.** There is a difference.

17 **Q.** What is the difference?

18 **A.** Well, a suspect, you are going to be asking  
19 certain questions that might implicate him or  
20 someone else with a crime. Where just a  
21 witness, you just ask him things like did you  
22 know anything, can you tell me something about  
23 something.

24 **Q.** When you are referring to wrongfully  
25 conducting interrogations of juveniles in

1 paragraph 12(e), is that referring to wrongfully  
2 interrogating juveniles who are criminal  
3 suspects?

4 **A.** Yes.

5 **Q.** Do you think that a detective who is out  
6 questioning a witness, a juvenile who says that  
7 they witnessed a crime, are they allowed to  
8 question that person without their parent  
9 present?

10 **A.** Repeat that again.

11 **Q.** If a police officer is investigating a  
12 crime, and comes upon a juvenile who indicates  
13 that they witnessed a crime, are they allowed to  
14 question that person without the parent being  
15 present?

16 **A.** Yes, yes.

17 **Q.** And why is that?

18 **A.** Because that person, he is not a suspect.  
19 He is not in police custody for the parent to be  
20 there to protect his rights.

21 **Q.** Were you involved in doing lineups?

22 **A.** Yes, I have done lineups before. Only  
23 Sergeants and above do lineups. A Sergeant has  
24 to be present when a lineup is conducted also.

25 **Q.** Have you done lineups, in which there was a

1 juvenile who was the witness?

2 **A.** No.

3 **Q.** So you don't have any personal knowledge of  
4 any lineups in which a juvenile was a witness?

5 **A.** No.

6 **Q.** In a normal situation where you are doing a  
7 lineup, the witness who is being asked to  
8 identify the people, other than the police  
9 detective, do they ever have any third parties  
10 with them, when they are being asked to identify  
11 somebody? I will ask it again.

12 So you have a witness who is being asked to  
13 identify people in a lineup. As a general  
14 practice, would you want to have other third  
15 parties there with the witness when they are in  
16 the course of doing their identification?

17 **A.** No.

18 **Q.** Why not?

19 **A.** Not a police officer.

20 Generally, when you conduct the lineup, you  
21 have the Sergeant or Lieutenant, often the  
22 detective and the person doing the lineup.

23 **Q.** And that is all?

24 **A.** His attorney is there to protect his  
25 rights. Other than that, those are the only

1 people that are in the lineups.

2 Q. That was the general practice?

3 A. Yes.

4 Q. And that is because you didn't want to have  
5 the witness to be influenced by any other  
6 parties?

7 A. That's correct. And that is why you always  
8 had to have a supervisor there, to make sure  
9 that that was done correctly.

10 Q. In paragraph 11(g), it is on page 3.

11 A. Yes.

12 Q. Do you know whether any of the homicide  
13 detectives that we have mentioned here in my  
14 questioning, maintained a personal file for the  
15 cases that they investigated, do you have any  
16 personal knowledge of that?

17 A. No.

18 Q. And with respect to handwritten notes, if a  
19 detective typed up his handwritten notes into  
20 the supplemental report that was then presented  
21 to the supervisor, do you have any knowledge as  
22 to whether or not those handwritten notes would  
23 have been kept in a personal file or not?

24 A. They should be. Always maintain -- we had  
25 a jacket, you have a jacket, you throw



1 everything in the jacket. They should be. But  
2 if they do it, I could not tell you.

3 Q. When you say a manila jacket, there would  
4 be an official investigative file?

5 A. Yes.

6 Q. And that file would have all the material  
7 information relating to the investigation?

8 A. Yes, copies of the statements that was  
9 given to the Statement Unit, everything that has  
10 to do with the case is kept in that jacket.

11 Q. That would include the Form 1s or the Form  
12 10s --

13 A. Yes.

14 Q. -- that documented the actual  
15 investigation?

16 A. Yes.

17 Q. So if the contents of a handwritten note  
18 were typed into the official report, that  
19 official information in those notes would be in  
20 the file?

21 THE WITNESS: Should be.

22 MR. GILBERT: Objection. Go  
23 ahead.

24 BY MR. FUNK:

25 Q. And do you have any personal knowledge as

1 to how that was handled within the Homicide  
2 Unit?

3 **A.** No.

4 **MR. FUNK:** Okay. I don't have  
5 any further questions. What time is it?

6 **MR. GILBERT:** It is after one.  
7 We should --

8 (Thereupon, a discussion was held off  
9 the record.)

10 EXAMINATION

11 **BY MS. WANG:**

12 **Q.** You had earlier testified in response to  
13 one of Mr. Funk's questions that police officers  
14 were allowed to interview juvenile witnesses  
15 without parents present because the juveniles in  
16 those cases were witnesses and not suspects; is  
17 that right?

18 **A.** Yes.

19 **Q.** Was that the practice of the Cleveland  
20 Police Department?

21 **A.** Yes.

22 **Q.** And that was the policy of the Cleveland  
23 Police Department?

24 **A.** Yes.

25 **MR. FUNK:** Objection.

1     **BY MS. WANG:**

2     **Q.**     Was that the policy and practice of the  
3     Cleveland Police Department in the 1970s?

4                   **MR. FUNK:**                   Objection.

5                   **THE WITNESS:**               It was a practice  
6     that we used. Policy, I couldn't tell you if it  
7     was a policy or not.

8     **BY MS. WANG:**

9     **Q.**     Okay.

10    **A.**     It was a practice.

11    **Q.**     Sure. How did you know that it was the  
12    practice of the Cleveland Police Department to  
13    allow juvenile witnesses to be interviewed  
14    without their parents?

15                   **MR. FUNK:**                   Objection.

16                   **MR. MALLAMAD:**               Objection.

17                   **THE WITNESS:**               I saw it being  
18    done.

19    **BY MS. WANG:**

20    **Q.**     On many occasions, could you approximate?

21    **A.**     On many occasions.

22    **Q.**     Did you ever see a policy, a written policy  
23    of the Cleveland Police Department one way or  
24    another about how to conduct interviews with  
25    juvenile witnesses?

1     **A.**     No.

2     **Q.**     Were you ever made aware of any policies of  
3     the Cleveland Police Department about how to  
4     conduct juvenile witness interviews?

5     **A.**     Later, later, in the '80s. They started  
6     doing more in-service training and that type of  
7     thing.

8     **Q.**     But as of 1975, there were no policies that  
9     you were aware?

10    **A.**     No.

11    **Q.**     We have had some opportunity to go through  
12    a lot of the things that were in your affidavit  
13    here today, which has been marked as Deposition  
14    Exhibit 3.

15           Is there anything in your affidavit that is  
16    inaccurate?

17    **A.**     No.

18    **Q.**     Everything in your affidavit is true?

19    **A.**     Yes.

20    **Q.**     To the best of your knowledge?

21    **A.**     Yes.

22    **Q.**     And you testified earlier about -- and this  
23    is in your affidavit as well -- about how there  
24    was no formal training on police policies,  
25    practices or procedures after completing the

1 police academy in the 1970s?

2 **A.** That's correct.

3 **Q.** And you talked a little bit about how there  
4 was some on-the-job training, where you would  
5 learn how to do things from, you know,  
6 superiors?

7 **A.** Co-workers.

8 **Q.** Co-workers or supervising officers, right?

9 **A.** Yes, yes.

10 **Q.** Would it be fair to say that any -- sorry,  
11 strike that.

12 Would it be fair to say that you learned  
13 the practices of the police department from your  
14 co-workers or your supervisors from whom you  
15 learned things on the job?

16 **A.** Yes.

17 **Q.** And would it be fair to say that any  
18 practices of your co-workers or your  
19 supervisors, whether they were good or bad, were  
20 then passed down to you when you learned how to  
21 do things from them?

22 **MR. FUNK:** Objection.

23 **THE WITNESS:** Yes.

24 **BY MS. WANG:**

25 **Q.** Do you know whether or not when you became

1 a -- sorry, strike that.

2 When you became a patrol officer in 1969,  
3 do you know whether or not the people from whom  
4 you learned, in terms of on-the-job training,  
5 whether they had any formal training?

6 MR. FUNK: Objection.

7 MR. MALLAMAD: Objection.

8 THE WITNESS: No.

9 BY MS. WANG:

10 Q. Did you have a sense of whether there was  
11 any training that was provided by the Cleveland  
12 Police Department to your co-workers or your  
13 supervisors from whom you learned things when  
14 you joined the police department?

15 MR. FUNK: Objection.

16 MR. MALLAMAD: Objection.

17 THE WITNESS: No.

18 BY MS. WANG:

19 Q. And you became a detective yourself in the  
20 Auto Theft Unit, right?

21 A. Yes.

22 Q. Did you become -- and did you receive any  
23 specialized training to become a detective?

24 MR. FUNK: Objection.

25 THE WITNESS: No. It is not what

1     you know, it is who you know.

2     **BY MS. WANG:**

3     **Q.**     What do you mean by that?

4     **A.**     Well, I got to be detective, I could play  
5     softball. I hit home runs and they needed a  
6     thumper on the team. So I was a detective. So  
7     they knew that and that is why I got to be a  
8     detective.

9     **Q.**     Oh, because --

10    **A.**     I played softball. And they wanted --

11    **Q.**     You are saying literally, it is not a  
12    baseball analogy.

13    **A.**     No.

14    **Q.**     Okay. Go ahead.

15    **A.**     They needed a home run hitter, they needed  
16    a pitcher. So I played softball, so I was a  
17    detective.

18    **Q.**     Was there a specific superior officer that  
19    promoted you to detective?

20    **A.**     Yes.

21    **Q.**     Who was it?

22    **A.**     Sergeant Dierker.

23    **Q.**     Was that Richard?

24    **A.**     Richard, yes.

25    **Q.**     And so how did you learn that you became a

1 detective from Sergeant Dierker?

2 **A.** I was notified. As a matter of fact, I was  
3 made a detective by information from Judge Lloyd  
4 O. Brown. I played golf with him one day, and  
5 he knew that they wanted a detective, and he  
6 asked if I wanted the job. He made a phone  
7 call, and I got the job.

8 **Q.** Did you have friends that became homicide  
9 detectives?

10 **A.** Yeah.

11 **Q.** Were you aware of any training that they  
12 received in order to become a homicide  
13 detectives?

14 **MR. FUNK:** Objection.

15 **MR. MALLAMAD:** Objection.

16 **THE WITNESS:** You were just  
17 picked, you were picked.

18 **BY MS. WANG:**

19 **Q.** Your friends who became homicide  
20 detectives, you were aware they were just picked  
21 to become homicide detectives?

22 **A.** Yes.

23 **MR. FUNK:** Objection.

24 **BY MS. WANG:**

25 **Q.** You have personal knowledge of that?



1                   **MR. FUNK:**                   Objection.

2                   **THE WITNESS:**               No testing for that  
3     type of job. You just know somebody, or you at  
4     the right place at the right time. Since then,  
5     they have a policy where the union have to pick  
6     and then you go by seniority. As the years went  
7     by, that is the way they put people in places.

8     **BY MS. WANG:**

9     **Q.**     You earlier discussed, you mentioned the  
10    thin blue line.

11    **A.**     Yes.

12    **Q.**     What did you mean by that?

13    **A.**     That is the police department, police  
14    officer, the police code of conduct, the thin  
15    blue line. You know, it is us and everybody  
16    else. The thin blue line.

17    **Q.**     And so what implication did the thin blue  
18    line have for your daily work as a detective,  
19    when you were a detective?

20                   **MR. FUNK:**                   Objection.

21                   **MR. MALLAMAD:**               Objection.

22                   **THE WITNESS:**               We just looked out  
23    for each other, you know.

24    **BY MS. WANG:**

25    **Q.**     Would you say that an officer like Ron

1 Turner was treated differently because he spoke  
2 out about things that he saw in the department  
3 that he thought was wrong?

4 **MR. FUNK:** Objection, leading.

5 **MR. MALLAMAD:** Objection.

6 **THE WITNESS:** Ron Turner, Fred  
7 Johnson, those are the guys that were -- Russell  
8 Johnson, they were the guys that spoke out and  
9 were treated differently.

10 **BY MS. WANG:**

11 **Q.** What do you know about how Fred Johnson was  
12 treated differently?

13 **A.** Fred was President of the Black Shield  
14 Police Association, and he was transferred  
15 because the Chief saw him one day, he was  
16 transferred. He was denied movement within the  
17 police department. That happened to him.

18 **Q.** What about Russell Johnson?

19 **A.** Same with Russell Johnson. Not transferred  
20 or that type of thing, but he was kind of  
21 ostracized by the police department by the  
22 stance that he made concerning the issues of  
23 black police officers.

24 **Q.** And what issues concerning black police  
25 officers?

1     **A.**     Promotion, discrimination, that type of  
2     thing.

3     **Q.**     You testified earlier a little bit about  
4     how there was no policy or practice requiring  
5     detectives to turn over everything in their  
6     possession to prosecutors?

7     **A.**     Yes.

8                     **MR. FUNK:**                     Objection.

9                     **MR. MALLAMAD:**                 Objection.

10    **BY MS. WANG:**

11    **Q.**     And if an officer decided not to take any  
12    notes or not to put in his investigative file  
13    some exculpatory information that he knew, such  
14    as a witness giving an officer exculpatory  
15    information about a suspect, if an officer  
16    decided not to document that, and then decided  
17    not to tell the prosecutor about what he knew,  
18    is there any way that the prosecutor would know  
19    about that information?

20                    **MR. FUNK:**                    Objection,  
21    hypothetical.

22                    **MR. MALLAMAD:**                 Objection.

23                    **MR. FUNK:**                    Calls for  
24    speculation.

25                    **THE WITNESS:**                 No.

1     **BY MS. WANG:**

2     **Q.**     So if there -- strike that.

3             So if an officer, if a detective while  
4     interviewing a suspect -- or sorry, strike that.

5             If an officer, while interviewing a  
6     witness, provided details of the crime to the  
7     witness in order to implicate a suspect, but  
8     then the detective never documented it and did  
9     not tell the prosecutor that he had done that,  
10    then is there any way a prosecutor would know  
11    about that?

12                   **MR. MALLAMAD:**         Objection.

13                   **MR. FUNK:**             Objection.    Same  
14     objection.

15                   **THE WITNESS:**         Not if the witness  
16     told him what had happened, then he would be  
17     kind of pissed off, I would think.

18     **BY MS. WANG:**

19     **Q.**     Were there any policies that you were aware  
20     of that instructed officers on whether or not  
21     they had to document information like that that  
22     they learned from witnesses?

23     **A.**     No.

24                   **MR. FUNK:**             Objection.

25                   **MR. MALLAMAD:**         Objection.

1     **BY MS. WANG:**

2     **Q.**     And was it the practice of Cleveland Police  
3     Department in the 1970s, for detectives not to  
4     document everything like that that they learned  
5     from witnesses?

6                     **MR. MALLAMAD:**         Objection.

7                     **MR. FUNK:**             Objection.

8                     **THE WITNESS:**         Firsthand  
9     knowledge, there was none.

10    **BY MS. WANG:**

11    **Q.**     There was none --

12    **A.**     There was no policy telling them.

13    **Q.**     There was no policy telling officers how to  
14    deal with that situation?

15    **A.**     Right.

16    **Q.**     Or what to document?

17    **A.**     Right.

18    **Q.**     And there were no policies in the 1970s,  
19    instructing officers on what information they  
20    could or could not provide to witnesses during  
21    interviews?

22                     **MR. MALLAMAD:**         Objection.

23                     **MR. FUNK:**             Objection.

24                     **THE WITNESS:**         It was a  
25    detective's discretion to do what he wanted to

1 do on certain cases, on a case.

2 **BY MS. WANG:**

3 **Q.** And was that your understanding of -- was  
4 that the policy and practice of the Cleveland  
5 Police Department, as you understood it?

6 **MR. MALLAMAD:** Objection.

7 **MR. FUNK:** Objection.

8 **THE WITNESS:** Practice, no  
9 policy.

10 **BY MS. WANG:**

11 **Q.** That was the practice of the Cleveland  
12 Police Department. How did you know that was  
13 the practice of the Cleveland Police Department?

14 **MR. FUNK:** Objection.

15 **MR. MALLAMAD:** Objection.

16 **THE WITNESS:** Because I was the  
17 detective, I did it, the department did it,  
18 other departments did it. You see everybody  
19 else doing what you want to do.

20 You handle your case like you feel  
21 you need to to get it solved.

22 **BY MS. WANG:**

23 **Q.** Jumping ahead in time a little bit, when  
24 you were Commander of --

25 **A.** Fifth and Sixth District.

1     **Q.**     -- of Fifth and Sixth District, that was in  
2     '95, or started in '95?

3     **A.**     '91 until 2001.

4     **Q.**     Okay. '91 to 2001. Can you talk a little  
5     bit about your duties and responsibilities when  
6     you were Commander.

7     **A.**     Well, I was in charge of operating the  
8     police station, running the police station. I  
9     was in charge of the detectives, I was in charge  
10    of strike force, Vice Squad, patrol. And it was  
11    my job to meet with the community, and foster  
12    relations between the community and the police  
13    department.

14    **Q.**     How many commanders were there in the  
15    Cleveland Police Department?

16    **A.**     Six district commanders and then you had  
17    bureau commanders, community relations. I think  
18    they had somewhere like 14, mandated by City  
19    Council.

20    **Q.**     Then who was your supervisor when you were  
21    the Commander?

22    **A.**     Chief.

23    **Q.**     The Chief of Police?

24    **A.**     Yeah.

25    **Q.**     Did you have meetings with the Chief of

1 Police to discuss anything that was going on in  
2 your district that you thought he should know  
3 about?

4 **A.** Yes.

5 **Q.** Can you tell me more how these meetings  
6 occurred?

7 **A.** We had monthly meetings or weekly meetings.  
8 We had weekly meetings with the Chief where the  
9 commanders would meet and discuss things. Then  
10 you had your own personal meeting with the Chief  
11 or the Mayor. I was unlucky that I was the  
12 Commander of the Mayor's district.

13 So I had more meetings than other  
14 commanders did, because I had to meet personally  
15 with the Mayor to take care of things that he  
16 wanted done.

17 **Q.** So these were weekly meetings with the  
18 Chief of Police and the commanders of all the  
19 districts?

20 **A.** Yes.

21 **Q.** And how long would these meetings generally  
22 last?

23 **A.** Two hours.

24 **Q.** What would be discussed at these meetings  
25 generally?



1     **A.**     Just basically operation of the police  
2     department, different initiatives we were doing  
3     and housekeeping issues.

4     **Q.**     Would you also bring up any problems that  
5     were going on in the districts that you felt the  
6     Chief of Police should know about?

7     **A.**     Why, at one time he had a thing called  
8     CompStat, similar to what they have in New York  
9     City. They would bring the commanders and you  
10    would sit before the board and they would  
11    question you about your knowledge of crimes that  
12    happened in your neighborhood, in your district,  
13    and what you did to combat that crime and how  
14    did you go about doing it.

15   **Q.**     Would it be fair to say that any problems  
16    that were widespread with detectives or police  
17    officers in your district were things that you  
18    might also raise in these meetings?

19                   **MR. FUNK:**               Objection.

20                   **THE WITNESS:**        Yes.

21   **BY MS. WANG:**

22   **Q.**     Do you have specific examples of that?

23   **A.**     If you are short of detectives or clearance  
24    rate. We did things by clearance. If your  
25    clearance rate was down, they wanted to know

1     why. You had to explain why the detectives  
2     weren't clearing crimes and why you had so many  
3     certain types of crimes happening in your area.

4     **Q.** And do you know whether in the 1970s, the  
5     structure of having commanders who reported  
6     directly to the Chief of Police was the same?

7                     **MR. FUNK:**             Objection.

8                     **THE WITNESS:**         It wasn't the same.

9     **BY MS. WANG:**

10    **Q.** Okay?

11    **A.** In the '70s, you had Deputy Chiefs --  
12    sorry, Deputy Inspectors and Inspectors.

13    **Q.** Okay. And so was Deputy Inspector  
14    equivalent to --

15    **A.** To a Commander.

16    **Q.** -- to a Commander. Okay. So they had a  
17    different title. But functionally, they were  
18    the same?

19    **A.** That's correct.

20    **Q.** There were Deputy Inspectors for each  
21    district?

22    **A.** Yes.

23    **Q.** And then what was the Inspector?

24    **A.** He might be in charge of a district too.  
25    Just two ranks of inspectors, Deputy Inspector

1 and Inspector.

2 **Q.** And then they would report to the Chief of  
3 Police?

4 **A.** Yes.

5 **Q.** As far as you are aware, did the Deputy  
6 Inspectors and the Inspectors also have meetings  
7 with the Chief of Police to talk about anything  
8 that was going on in their districts?

9 **MR. FUNK:** Objection.

10 **MR. MALLAMAD:** Objection.

11 **THE WITNESS:** I don't know.

12 **BY MS. WANG:**

13 **Q.** Do you have any reason to believe that the  
14 Deputy Inspectors and Inspectors in the 1970s,  
15 did not have meetings with the Chief of Police?

16 **MR. FUNK:** Objection, leading.

17 **MR. MALLAMAD:** Objection.

18 **THE WITNESS:** No.

19 **BY MS. WANG:**

20 **Q.** Do you have any reason to believe that they  
21 didn't have those meetings?

22 **MR. FUNK:** Objection.

23 **MR. MALLAMAD:** Objection.

24 **THE WITNESS:** Oh, I believe they  
25 had meetings. They definitely had meetings.

1 When and how I could not tell you.

2 **BY MS. WANG:**

3 **Q.** Why do you feel they definitely had  
4 meetings?

5 **MR. FUNK:** Objection.

6 **THE WITNESS:** That is the chain  
7 of command of the police department. You have  
8 to have a meeting with your supervisor.

9 **BY MS. WANG:**

10 **Q.** That was part of your job as Commander?

11 **MR. MALLAMAD:** Objection.

12 **THE WITNESS:** Yes.

13 **BY MS. WANG:**

14 **Q.** That was something that you expected was  
15 part of the job as Deputy Inspectors and the  
16 Inspectors as well?

17 **A.** Yes.

18 **MR. MALLAMAD:** Objection.

19 **BY MS. WANG:**

20 **Q.** When you were a Commander, did you ever  
21 meet with the Director of Public Safety?

22 **A.** Yes.

23 **Q.** So what was his role relative to the Chief  
24 of Police?

25 **A.** He was the administrator of the budgets and

1 housekeeping issues for the police department,  
2 fire department, safety in general.

3 **Q.** Was it your understanding that the Chief of  
4 Police was responsible for policies and  
5 practices in the police department?

6 **MR. MALLAMAD:** Objection.

7 **MR. FUNK:** Objection.

8 **THE WITNESS:** Yes.

9 **BY MS. WANG:**

10 **Q.** Did the Director of Public Safety have  
11 anything to do with the policies and practices  
12 of the police department?

13 **MR. MALLAMAD:** Objection.

14 **THE WITNESS:** Somewhat.

15 **BY MS. WANG:**

16 **Q.** In what way?

17 **A.** Well, he reviews policies. If he sees  
18 something wrong, he would contact the Chief and  
19 they would make changes. He was the custodian  
20 or the boss, he was the number one person.

21 **Q.** When you were the Commander of the weekly  
22 meetings that you described for the Chief of  
23 Police, would the Public Safety Director be  
24 there too?

25 **A.** No.

1     **Q.**     Were you ever present for any meetings with  
2     the Public Safety Director when you were  
3     Commander?

4     **A.**     Yes.

5     **Q.**     What kind of meetings were those?

6     **A.**     Mainly he came to meetings when we were  
7     dealing with the Ku Klux Klan within Cleveland,  
8     and he would come in and we would sit down and  
9     talk about what we were going to do to make the  
10    city safe, what kind of barricade, that type of  
11    thing. He was handling those type of meetings.

12    **Q.**     Earlier, you were asked a series of  
13    questions by Mr. Mallamad, about whether or not  
14    you ever received written materials from the  
15    Cleveland Police Department that instructed you  
16    to act in accordance with the law or the U.S.  
17    Constitution. Do you remember those questions?

18                   **MR. MALLAMAD:**       Objection.

19                   **THE WITNESS:**       Yes.

20    **BY MS. WANG:**

21    **Q.**     You don't have a legal background, right?

22    **A.**     No.

23    **Q.**     And did the detectives that you worked with  
24    and knew in the 1970s have legal training or  
25    legal background?

1                   **MR. FUNK:**                   Objection.

2                   **MR. MALLAMAD:**               Objection.

3                   **THE WITNESS:**            Some, some were  
4 attorneys.

5   **BY MS. WANG:**

6   **Q.**   Did you know -- with respect to the  
7 officers who weren't attorneys, would you have  
8 any sense of what the law was, unless you had  
9 been given some training on it from the police  
10 department?

11                  **MR. MALLAMAD:**           Objection.

12                  **MR. FUNK:**               Objection.

13                  **THE WITNESS:**           Well, you had a  
14 copy of the Ohio Criminal Code, and that is what  
15 you guided yourself by when you dealt with  
16 people. We all, you know, adhered to the  
17 criminal code.

18   **BY MS. WANG:**

19   **Q.**   So having a copy of the criminal code  
20 helped you determine when somebody had -- when a  
21 suspect had violated the laws that you would  
22 have probable cause to arrest them, right?

23   **A.**   That's correct.

24   **Q.**   Besides getting a copy of the criminal  
25 code, did you ever receive any training on what

1 your legal obligations were as a police officer?

2 MR. FUNK: Objection.

3 MR. MALLAMAD: Objection.

4 THE WITNESS: Yes, we did.

5 BY MS. WANG:

6 Q. And what kind of training did you receive?

7 A. We got that in the police academy.

8 Q. That is what you talked about earlier?

9 A. Yes.

10 Q. And besides what you already testified to,  
11 was there any other kind of training that you  
12 received on your legal obligations of a police  
13 officer?

14 A. Later on, when we started having in-service  
15 training, we got those type of -- we got that  
16 type of training.

17 Q. That was in the 1980s?

18 A. Yes.

19 Q. That did not occur in the 1970s?

20 A. No.

21 MR. MALLAMAD: Objection.

22 MR. FUNK: Objection.

23 BY MS. WANG:

24 Q. You had testified earlier about how it was  
25 not -- you stopped the practice of officers



1     interrogating juvenile suspects without their  
2     parents?

3     **A.**     Yes.

4                     **MR. MALLAMAD:**         Objection.

5     **BY MS. WANG:**

6     **Q.**     Why did you stop that practice?

7     **A.**     Because it was illegal; you just didn't do  
8     it.

9     **Q.**     Would you say it was wrong to interrogate  
10    juvenile suspects without their parents?

11                    **MR. MALLAMAD:**         Objection.

12                    **MR. FUNK:**             Objection.

13                    **THE WITNESS:**         If they were a  
14    suspect in a crime, you didn't do it.

15    **BY MS. WANG:**

16    **Q.**     Why, though? I am trying to understand  
17    why.

18    **A.**     Because you don't interview or question  
19    juveniles without their parents being there to  
20    protect their rights.

21    **Q.**     Is it because juveniles are more  
22    susceptible to --

23    **A.**     Just a second.

24    **Q.**     Is it fair to say that it is because  
25    juveniles are more susceptible to threats or

1 coercion or other types of misconduct than an  
2 adult would be?

3 **MR. FUNK:** Objection.

4 **MR. MALLAMAD:** Objection.

5 **THE WITNESS:** Juveniles, some are  
6 smart. The majority of them, they don't know  
7 what -- they can be easily coerced, they can be  
8 told to say certain things, they could be led a  
9 certain way without having a grown-up there, and  
10 sometimes that don't happen, because of the  
11 mentality of the grown-up; they could stop it.

12 If your mother not smart, your father  
13 not smart, anything can go on. But generally,  
14 you need them there to protect the rights of the  
15 kid.

16 **BY MS. WANG:**

17 **Q.** Have you ever interrogated a juvenile as  
18 young as 12?

19 **A.** No.

20 **Q.** Have you seen other police officers in the  
21 department, either interview a juvenile witness  
22 or interrogate a juvenile suspect as young as  
23 12?

24 **MR. FUNK:** Objection.

25 **THE WITNESS:** Yes.

1     **BY MS. WANG:**

2     **Q.**     On how many occasions?

3     **A.**     Numerous occasions. I can't give you a  
4     number. But like I said, working in different  
5     bureaus, and being a Commander, and walking  
6     through the police stations, walking through  
7     things, you see.

8     **Q.**     And are there any of those specific  
9     instances where detectives were questioning  
10    juveniles that young that stand out in your  
11    mind?

12    **A.**     No.

13    **Q.**     Were parents there for those instances?

14    **A.**     Yes.

15    **Q.**     And were those instances that happened  
16    after the 1970s?

17    **A.**     Yes.

18    **Q.**     You said that you were familiar with Gerald  
19    Englehart from the Statement Unit?

20    **A.**     Yes.

21    **Q.**     And you had had him type up statements for  
22    you of witnesses before?

23    **A.**     Yes.

24    **Q.**     How would you go about getting statements  
25    from -- or getting him to type up statements

1 from you?

2 **A.** See, in the '70s, they had a Statement  
3 Unit. Now the detectives type their own  
4 statements up. In the '70s, we had a report  
5 center, where you would call in and a person  
6 would type a report, a female would type a  
7 report for you over the telephone.

8 Now they put them in computers. Those  
9 days, they had just got assigned to Statement  
10 Unit, that is all they did was type up  
11 statements.

12 You would bring your witness or your  
13 suspect into the Statement Unit, sit them down  
14 and you conduct a statement. He would type as  
15 you are talking. He would even ask questions  
16 also, that you probably didn't ask, because they  
17 are so familiar with the questions that they ask  
18 during a statement, some things you couldn't  
19 remember, they would chime in, which was okay  
20 with us, to ask those questions of the suspect  
21 or the witness.

22 **Q.** Did you have those occasions where you  
23 brought somebody to the Statement Unit and had  
24 Englehart type up a statement for you?

25 **A.** Yes.

1     **Q.**     Do you have any knowledge of how the  
2     statement of the juvenile witness in this case  
3     was taken?

4     **A.**     No, I don't.

5     **Q.**     What were you going to say?

6     **A.**     I didn't allow statements to be taken of  
7     juveniles, because really you don't have a place  
8     for a statement of a juvenile in the system. We  
9     generally made fact sheets, we sent the fact  
10    sheets through the Juvenile Court and the  
11    Juvenile Court took the fact sheet and took care  
12    of the juveniles.

13    **Q.**     Is that with reference to juvenile  
14    suspects, is that what you are referring to?

15    **A.**     Yes, yes.

16    **Q.**     What about juvenile witnesses? The  
17    allegation in this case is that there was a  
18    juvenile witness, a witness who was 12 years  
19    old, who made a statement implicating the  
20    Plaintiffs in this case, Ricky Jackson, Kwame  
21    Ajamu and Wiley Bridgeman.

22            Did you have any experience one way or  
23    another in the 1970s with respect to how  
24    juvenile witness statements were taken?

25    **A.**     No.

1                   **MR. MALLAMAD:**           Objection.

2                   **MR. FUNK:**               Objection.

3   **BY MS. WANG:**

4   **Q.**    Did the detectives in the 1970s have access  
5   to typewriters?

6   **A.**    Yes.

7   **Q.**    Did you ever see any detectives type their  
8   own statements, statements of witnesses?

9   **A.**    Oh, yeah, I did. My partner did. We did  
10  them.

11           Because you might not be able to get in the  
12  Statement Unit, so you type your own statement,  
13  witness statements, yes.

14   **Q.**    How would you go about typing up those  
15  statements, would you do an interview with the  
16  witness and type them up right there?

17   **A.**    Yes.

18   **Q.**    Or you would do it afterwards?

19   **A.**    No, while the witness was there.

20   **Q.**    So typewriters were available in the  
21  Detective Bureau to detectives who wanted to  
22  type their own statements?

23                   **MR. MALLAMAD:**           Objection.

24                   **THE WITNESS:**           Yes.

25

1     **BY MS. WANG:**

2     **Q.**     That was true in 1975?

3     **A.**     Yes.

4     **Q.**     Could we take a quick break?

5                     (Thereupon, a recess was taken.)

6                                     EXAMINATION

7     **BY MR. GILBERT:**

8     **Q.**     I have a few questions for you, Mr. Tell.

9             When you came to my office to discuss some  
10    of the matters that were brought up today, did I  
11    lead you into answering these questions the way  
12    you have testified, did I suggest in any way  
13    that this was the way things happened back in  
14    the police department during your career or did  
15    you voluntarily tell me these things?

16    **A.**     You didn't suggest anything. I  
17    volunteered, told you.

18    **Q.**     Everything in that affidavit was basically  
19    what you told me; is that correct?

20    **A.**     That's correct.

21    **Q.**     Now, you came in the police department in  
22    1969. And you had mentioned that Mayor Stokes  
23    was an advocate for bringing in minorities into  
24    the police department, right?

25    **A.**     Yeah, the first time I mentioned that was

1 today, yes.

2 Q. Did you know Mayor Stokes?

3 A. Yes.

4 Q. And were you aware whether Mayor Stokes was  
5 concerned about the racial makeup in the police  
6 department?

7 A. Yes.

8 Q. Were you aware whether Mayor Stokes was  
9 concerned about the racial disparities with the  
10 way blacks were treated by police, versus  
11 whites?

12 MR. FUNK: Objection.

13 THE WITNESS: Yes.

14 BY MR. GILBERT:

15 Q. You indicated that even you were put into a  
16 position of monitoring the police academy to  
17 make sure that there was fair treatment of  
18 minorities; is that correct?

19 A. That's correct.

20 Q. Do you know who was responsible for putting  
21 you in that position?

22 A. Safety Director Reginald Turner.

23 Q. Was he a black Safety Director?

24 A. Yes.

25 Q. Mr. Mallamad asked you about whether there



1 was any kind of actual training where police  
2 were instructed to violate the Constitution or  
3 other laws. And you said no, there was no  
4 training. Correct?

5 **A.** That's correct.

6 **Q.** Now, you have listed today numerous  
7 incidents of beatings of suspects, of misconduct  
8 in terms of evidence and property, stealing by  
9 police officers, all these kinds of things that  
10 we went over today, that you had personal  
11 knowledge of and you were aware of.

12 Would you consider those to be violations  
13 of law?

14 **MR. MALLAMAD:** Objection.

15 **THE WITNESS:** Yes.

16 **BY MR. GILBERT:**

17 **Q.** And these incidents occurred, I believe you  
18 testified these incidents occurred even with  
19 supervisors and even Lieutenants were aware of  
20 these things occurring, correct?

21 **MR. FUNK:** Objection.

22 **MR. MALLAMAD:** Objection.

23 **THE WITNESS:** It is something I  
24 told you about today. I didn't talk to you  
25 about it in your office.

1     **BY MR. GILBERT:**

2     **Q.**     Right. But you are telling us today that  
3     there were these situations where serious  
4     misconduct took place in the presence of  
5     supervisors, correct?

6                     **MR. FUNK:**             Objection.

7                     **MR. MALLAMAD:**       Objection.

8                     **THE WITNESS:**       That's correct.

9     **BY MR. GILBERT:**

10    **Q.**     And were you aware of whether any of these  
11    officers who committed these serious incidents  
12    of misconduct were disciplined in any way?

13                    **MR. MALLAMAD:**       Objection.

14                    **MR. FUNK:**             Objection, asked  
15    and answered.

16                    **THE WITNESS:**       Just the one. The  
17    case of the stolen ring.

18    **BY MR. GILBERT:**

19    **Q.**     Of all the various terrible things that you  
20    were aware that fellow police officers did, you  
21    only knew of one time where somebody was  
22    disciplined; is that right?

23                    **MR. MALLAMAD:**       Objection.

24                    **MR. FUNK:**             Objection.

25                    **THE WITNESS:**       Yes, that's

1 correct.

2 **BY MR. GILBERT:**

3 **Q.** Was there a prevailing understanding among  
4 you and your fellow officers that police can get  
5 away with this kind of behavior without being  
6 held accountable?

7 **MR. MALLAMAD:** Objection.

8 **MR. FUNK:** Objection, leading.

9 **THE WITNESS:** I was aware of it.

10 **BY MR. GILBERT:**

11 **Q.** Now, you have talked about the thin blue  
12 line. Is that similar to the code of silence?

13 **A.** Similar.

14 **Q.** What would be the difference?

15 **A.** Well, the code of silence is, you see  
16 something happening and you don't want to tell.  
17 The thin blue line is police in general, where  
18 it is us against them. And it is a thin blue  
19 line. I kind of look at it as a different code  
20 of silence.

21 **Q.** When you were Commander in a couple of  
22 districts where you were involved, did you teach  
23 officers to engage in the code of silence?

24 **A.** No.

25 **Q.** Did you --

1     **A.**     That is not taught.

2     **Q.**     That is not taught?

3     **A.**     No, that is learned.

4     **Q.**     And is that -- in the '70s, was that a  
5     prevailing culture within the Cleveland Police  
6     Department?

7                     **MR. MALLAMAD:**         Objection.

8                     **MR. FUNK:**             Objection.

9     Leading, no foundation.

10                    **THE WITNESS:**         That was a  
11     prevailing culture in all police departments in  
12     the United States.

13     **BY MR. GILBERT:**

14     **Q.**     But I am asking you specifically in the  
15     Cleveland Police Department in the '70s.

16     **A.**     Yes.

17                    **MR. FUNK:**             Objection.

18                    **MR. MALLAMAD:**         Objection.

19     **BY MR. GILBERT:**

20     **Q.**     Was that the custom of the members of the  
21     Police Department to engage in that kind of code  
22     of silence?

23                    **MR. FUNK:**             Objection.

24                    **MR. MALLAMAD:**         Objection.

25                    **THE WITNESS:**         Yes.

1     **BY MR. GILBERT:**

2     **Q.**     And when there is a code of silence, then  
3     it is not reported, the misconduct is not  
4     reported to higher ups, correct?

5                     **MR. MALLAMAD:**         Objection.

6                     **THE WITNESS:**         That's correct.

7     **BY MR. GILBERT:**

8     **Q.**     If the higher ups don't know about it,  
9     there is nothing they can do about it?

10                    **MR. MALLAMAD:**         Objection.

11                    **MR. FUNK:**             Objection.

12     **BY MR. GILBERT:**

13     **Q.**     Right?

14     **A.**     That's correct.

15     **Q.**     Were you aware of situations where officers  
16     actually broke the code of silence and reported  
17     misconduct?

18     **A.**     Yes.

19     **Q.**     And what happened to them?

20     **A.**     They were ostracized.

21                    **MR. FUNK:**             Objection.

22                    **THE WITNESS:**         They were -- things  
23     happened to their cars, things happened to their  
24     lockers, things happened to personal belongings  
25     and they got the message.

1 **BY MR. GILBERT:**

2 **Q.** So when you say you got the message, was it  
3 if you see violations of the Constitution,  
4 violations of the law, abusing people, beating  
5 people, stealing things from people, you better  
6 not talk about it, because something is going to  
7 happen to you?

8 **MR. MALLAMAD:** Objection.

9 **MR. FUNK:** Objection, leading.

10 **THE WITNESS:** That's correct.

11 **BY MR. GILBERT:**

12 **Q.** In your affidavit regarding that paragraph  
13 10(a), where you talk about in 1975 regarding no  
14 formal training after the police academy, and  
15 that it was basically on-the-job training; you  
16 indicated that there was no uniform, standard  
17 training for every new officer, because senior  
18 officers who trained new officers did not all  
19 use the same practices.

20 **A.** That's correct. Now they call them field  
21 training officers. And the field training  
22 officers today that started in the '80s, they  
23 were sent to the police academy, they were given  
24 instructions on how to train, how to grade, and  
25 the police came out, they got graded. You

1 actually get graded.

2 Q. Okay.

3 A. We didn't get graded.

4 Q. So given this, as you say, different  
5 practices that are not uniform, and apply it to  
6 the situation where detectives turn over  
7 information to prosecutors, is it your testimony  
8 that some kinds of information could be turned  
9 over than other kinds of information?

10 MR. FUNK: Objection.

11 MR. MALLAMAD: Objection.

12 THE WITNESS: Yes.

13 BY MR. GILBERT:

14 Q. And there was no way of monitoring and  
15 controlling that disparity, was there?

16 MR. FUNK: Objection.

17 MR. MALLAMAD: Objection.

18 THE WITNESS: No.

19 BY MR. GILBERT:

20 Q. In terms of information about changes --  
21 this is paragraph 10(c), information about  
22 changes in the law were not provided through  
23 formal training.

24 So some officers were able to get the  
25 information about changes in law, and others

1     were not?

2                   **MR. FUNK:**             Objection.

3                   **MR. MALLAMAD:**       Objection.

4                   **MR. FUNK:**             Lack of foundation.

5     **BY MR. GILBERT:**

6     **Q.**     Is that what you are saying?

7     **A.**     Yes.

8     **Q.**     So in terms of the changes of law would be  
9     a hit or miss situation?

10                  **MR. FUNK:**             Objection.

11                  **MR. MALLAMAD:**       Objection.

12                  **THE WITNESS:**       If you didn't come  
13     to work today and they read a roll call about  
14     something was happening, if your partner didn't  
15     tell you or you didn't come back the next day  
16     when they read it again, you didn't find out  
17     about it until later, then, you know, you  
18     started adhering to that.

19     **BY MR. GILBERT:**

20     **Q.**     You indicated in terms of -- if you look at  
21     11(d) there, where it says, "Unless a prosecutor  
22     asks the detective working the case if there was  
23     anything else related to the case that he should  
24     know about it, then the prosecutor would not  
25     receive any additional information beyond



1 written statements."

2 Do you see that?

3 **A.** Yes.

4 **Q.** Are you saying there that it is up to the  
5 detective to determine what additional  
6 information beyond the written statements would  
7 be provided?

8 **MR. FUNK:** Objection, leading.

9 **MR. MALLAMAD:** Objection.

10 **THE WITNESS:** Yes, that is the  
11 way it would go down.

12 **BY MR. GILBERT:**

13 **Q.** Unless the prosecutor asked, do you have  
14 any information other than what is in the file,  
15 that prosecutor would not get it?

16 **MR. MALLAMAD:** Objection.

17 **MR. FUNK:** Objection,  
18 speculation.

19 **THE WITNESS:** Sure would not. He  
20 would not get it.

21 **BY MR. GILBERT:**

22 **Q.** And that would hold true, what you just  
23 testified in paragraph (f), regarding a tip that  
24 an alternative suspect committed a crime?

25 **MR. FUNK:** Objection.

1                   **MR. MALLAMAD:**           Objection.

2   **BY MR. GILBERT:**

3   **Q.**     Would the same practice be involved?

4                   **MR. FUNK:**           Objection.

5                   **MR. MALLAMAD:**       Objection.

6                   **THE WITNESS:**       Yes, yes. Here is  
7   the way that is done. Say that a detective  
8   interviews somebody and the guy say snitches.  
9   Well, he is not going to get that information,  
10   because he wants to take care of the snitch. So  
11   he just would not tell him, to protect the  
12   person.

13   **BY MR. GILBERT:**

14   **Q.**     Um-hum, okay.

15   **A.**     That is one way it is done.

16   **Q.**     Maybe Liz had asked this before, I am  
17   sorry.

18                There were two files, correct, one was the  
19   official file and one was your own personal  
20   file?

21                   **MR. FUNK:**           Objection, leading.

22                   **MR. GILBERT:**       What is wrong with  
23   leading questions?

24                   **MR. FUNK:**           You specifically  
25   asked him at the beginning of the deposition

1     that you didn't lead him when you prepared his  
2     affidavit.

3                   **MR. GILBERT:**           This is based on  
4     your, Shawn's about four or five hours of  
5     testimony.

6                   **MR. FUNK:**            This is your  
7     witness.

8                   **MR. GILBERT:**        Tell me what under  
9     Rule 26 where I cannot ask a leading question in  
10    a deposition.

11                   **MR. FUNK:**            You are leading  
12    your witness. It is your witness.

13                   **MR. GILBERT:**        All right.

14                   **THE WITNESS:**       Repeat the  
15    question.

16                   **MR. GILBERT:**        Can you repeat the  
17    question.

18                   (Thereupon, the Reporter read the  
19    record as requested.)

20                   **THE WITNESS:**        That's correct.

21                   **MR. FUNK:**            Same objection.

22                   **MR. MALLAMAD:**       Same objection.

23    **BY MR. GILBERT:**

24    **Q.**     And did the personal file have information  
25    that, sometimes have information that was not in

1 the official file?

2 MR. FUNK: Objection.

3 MR. MALLAMAD: Objection.

4 THE WITNESS: Yes, the official  
5 file is kept in the Statement Unit.

6 BY MR. GILBERT:

7 Q. And there was no policies or procedures  
8 that the personal file was to be turned over to  
9 the prosecutor, correct?

10 MR. MALLAMAD: Objection.

11 MR. FUNK: Objection.

12 THE WITNESS: Repeat the question  
13 again.

14 BY MR. GILBERT:

15 Q. Was it your understanding that there was a  
16 requirement that the personal file with the  
17 additional material was required to be turned  
18 over to the prosecutor?

19 MR. MALLAMAD: Objection.

20 MR. FUNK: Objection.

21 THE WITNESS: Yes.

22 BY MR. GILBERT:

23 Q. So there was no policy?

24 MR. MALLAMAD: Objection.

25

1     **BY MR. GILBERT:**

2     **Q.**     Is that what you are saying?

3     **A.**     There was, there is a policy. Let's say on  
4     the written, no, but it was understood that  
5     anything you have in your file that is  
6     pertinent, should go to the prosecutor.

7     **Q.**     And did you see any cases where some of  
8     that information in the personal file was not  
9     turned over to a prosecutor in the course of  
10    your participation as a detective?

11                   **MR. FUNK:**             Objection.

12                   **MR. MALLAMAD:**       Objection.

13                   **THE WITNESS:**       Yes.

14                   **MR. GILBERT:**       I have no further  
15    questions at this point.

16                   **MR. MALLAMAD:**       I just have a  
17    couple of follow-up questions, Mr. Tell.

18                               FURTHER EXAMINATION

19    **BY MR. MALLAMAD:**

20    **Q.**     Mr. Tell, you were never a member of the  
21    Homicide Unit throughout your entire career?

22    **A.**     Never.

23    **Q.**     And you are not able to give any evidence  
24    as to the training that the homicide detectives  
25    who worked in the Homicide Bureau in the 1970s

1 received?

2 **A.** I am not able to say that.

3 **Q.** And you are not able to testify as to the  
4 practices of homicide detectives who worked in  
5 the Homicide Bureau in the 1970s; is that  
6 correct?

7 **A.** That's correct.

8 **Q.** The Safety Director for the City of  
9 Cleveland and the Police Chief for the City of  
10 Cleveland have different abilities to impose  
11 discipline?

12 **A.** That's correct.

13 **Q.** By that I mean, the Police Chief is limited  
14 to what he or she can impose?

15 **A.** He can give you up to ten days, Safety  
16 Director can fire you. You can be suspended up  
17 to ten days by the Chief of Police. The Safety  
18 Director fires you. The Chief of Police handles  
19 all incidents that are misdemeanors. The Safety  
20 Director takes care of the felonies.

21 **Q.** The Safety Director can impose discipline  
22 beyond ten days, up to and including  
23 termination?

24 **A.** That's correct.

25 **MR. MALLAMAD:** Those are all my

1 questions.

2 **MR. FUNK:** I have just a  
3 couple of final as well.

4 FURTHER EXAMINATION

5 **BY MR. FUNK:**

6 **Q.** When you are talking about personal files,  
7 are you talking about your own personal file?

8 **A.** You have a working file, and then once you  
9 take all the information out of your working  
10 file, you give your -- the original file is sent  
11 to the prosecutor.

12 But you also keep a copy of that, plus your  
13 notes, pictures, additional pictures, that type  
14 of thing. That is your personal file which is  
15 kept in a locker or a file cabinet in the  
16 office.

17 **Q.** So it is not -- when we are talking about  
18 personal files, you are not talking about some  
19 file that you kept, just you yourself  
20 personally, in like a desk drawer, you are  
21 talking about the file that was kept by the  
22 homicide -- not the homicide, by your Detective  
23 Bureau?

24 **A.** Yes.

25 **Q.** So when you speak of personal files, you

1 are talking about the official investigatory  
2 file of the Detective Bureau?

3 **A.** That's correct.

4 **Q.** And that file, the contents of that file  
5 was provided, if it related to the  
6 investigation, it was material to the  
7 investigation, that would be provided to the  
8 prosecutor?

9 **A.** A cleaner duplicate of that file, yes.

10 **Q.** There wouldn't be any information in that  
11 file that you would withhold from the  
12 prosecutor, if it was material to the  
13 investigation?

14 **MR. GILBERT:** Which file are you  
15 talking about, the handwritten notes?

16 **BY MR. FUNK:**

17 **Q.** When he talked about personal file, you are  
18 talking about the file that was kept by -- we  
19 are talking about the Auto Theft Detective  
20 Bureau, the file that was kept by the Auto Theft  
21 Detective Bureau?

22 **A.** Right.

23 **Q.** So when you talked -- you had the question  
24 from, the leading questions from Attorney  
25 Gilbert, he said, there is a personal file and



1 then there is an official file. I think when  
2 you answered, when you were talking about an  
3 official file, you were saying that was the file  
4 kept by the Statement Unit?

5 **A.** And the prosecutor.

6 **MR. GILBERT:** No.

7 **MS. WANG:** No.

8 **THE FUNK:** Hold on, let me  
9 explain.

10 **THE WITNESS:** Point of  
11 clarification: Statements in a case was kept by  
12 the Statement Unit, just the statements.

13 **BY MR. FUNK:**

14 **Q.** Okay.

15 **A.** The statements, plus photos, any other  
16 investigative things, reports, they were all  
17 given to the prosecutor.

18 **Q.** So when you talk about the personal file,  
19 that is just a copy of the file, the official  
20 file that was given to the prosecutor?

21 **A.** That's correct.

22 **Q.** And you are not aware of any of the  
23 homicide detectives that I listed for you  
24 previously, Eugene Terpay, James Farmer, John  
25 Staimpel, Frank Stoiker, Peter Comodeca, you are

1 not aware of any of those five detectives or  
2 Sergeant keeping a separate personal file,  
3 separate from the official homicide  
4 investigation file?

5 **A.** No.

6 **MR. FUNK:** Thank you.

7 **MS. WANG:** I have a few  
8 follow-up.

9 **MR. GILBERT:** Let me just --

10 FURTHER EXAMINATION

11 **BY MR. GILBERT:**

12 **Q.** Okay. Let's try to clear this up here in  
13 my mind. There were personal notes that were,  
14 according to (h), if you look at (h), 11(h), in  
15 your affidavit it says, "Detectives placed their  
16 personal notes in the detective's personal case  
17 folder."

18 Do you see that?

19 **A.** Yes.

20 **Q.** What is that? What is the personal case  
21 folder?

22 **A.** That is the folder that is kept inside of  
23 the file cabinet in the bureaus.

24 **Q.** And that would have notes and handwritten  
25 things in there as well, right?

1     **A.**     Yeah, you keep -- you keep them in your  
2     possession until you clear the case. Once the  
3     case is cleared, they are filed away. Until  
4     then, they are yours, you keep them in your desk  
5     drawer and you use them as a working tool.

6     **Q.**     And my question to you, is the personal  
7     case folder that you prepare as a detective in  
8     your unit, is that turned over to the  
9     prosecutor?

10    **A.**     No.

11                   **MR. GILBERT:**           Thank you.

12                               FURTHER EXAMINATION

13    **BY MR. FUNK:**

14    **Q.**     Okay. You are talking about the Auto Theft  
15    Detective Bureau, right?

16    **A.**     All detective bureaus.

17    **Q.**     I am sorry, did you have follow-up  
18    questions?

19                   **MS. WANG:**           No.

20    **BY MR. FUNK:**

21    **Q.**     I didn't mean to interrupt.

22    **A.**     I was the Chief Detective of the district.

23    **Q.**     You don't have any knowledge of how the  
24    files were kept in Homicide Detective Bureau in  
25    1975?

1     **A.**     They were all kept the same.   Statements  
2     were given to the Statement Unit.   They stayed  
3     there.   Every detective has a file that you use  
4     when you go out on the street to talk to people,  
5     it is in a manila envelope with the names of  
6     suspects on them.

7     **Q.**     Right.

8     **A.**     Everything is in there.

9     **Q.**     And that is --

10    **A.**     That is your working file.

11    **Q.**     That file, there is only one file that has  
12    all the information relating to the official  
13    investigation, to your knowledge?

14    **A.**     There are two.   There are two files.

15    **Q.**     There is a Statement Unit file?

16    **A.**     Then once the case is presented to the  
17    prosecutor, he gets the cleaned up version of  
18    everything, statements and every other  
19    supplemental report that you have in the folder,  
20    that type of thing, are given to the prosecutor.

21            You also have in your possession the same  
22    information, but it is not as cleaned up as the  
23    original that you send him.

24    **Q.**     You don't have any knowledge that that  
25    practice was followed by the detectives in the

1 Homicide Bureau in 1975, do you?

2 **MR. GILBERT:** Objection, he  
3 already answered that.

4 **MR. FUNK:** No, he didn't.

5 **MS. WANG:** He said all  
6 detectives --

7 **THE WITNESS:** All detectives did  
8 that.

9 **BY MR. FUNK:**

10 **Q.** You don't have any knowledge about the  
11 Detectives Farmer, Terpay, you already answered  
12 that question?

13 **A.** No.

14 **Q.** In this case, do you have any knowledge  
15 that Detective Farmer, Terpay, Staimpel,  
16 Stoiker, ever withheld any evidence from the  
17 prosecutor?

18 **MR. GILBERT:** Objection. Beyond  
19 the scope of the redirect.

20 **THE WITNESS:** No.

21 **BY MR. FUNK:**

22 **Q.** And do you know whether the official  
23 investigative file in this case was provided to  
24 the prosecutor?

25 **MR. GILBERT:** Objection. He

1 doesn't know anything about this case.

2 **BY MR. FUNK:**

3 **Q.** So you don't have any knowledge as to  
4 whether or not there was anything that was  
5 withheld from the prosecutor in this case?

6 **A.** No.

7 **MR. FUNK:** Thank you.

8 **MR. GILBERT:** Okay. So you see  
9 this court reporter here, who wrote  
10 everything -- typed everything out in notes.  
11 She is going to prepare a transcript of what you  
12 said today. You have a right to review that, to  
13 see if there is any errors or things that you  
14 don't agree with.

15 Do you want to do that or do you want  
16 to just -- or do you want to waive it?

17 **THE WITNESS:** I will waive it.

18 (Thereupon, the W. Tell, Sr.,  
19 deposition was concluded at 2:04  
20 o'clock p.m.)

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1                   C E R T I F I C A T E  
2

3       STATE OF OHIO,       )  
4                               )   SS:  
5       SUMMIT COUNTY,     )

6               I, Binnie Purser Martino, a Registered  
7       Diplomate Reporter, Certified Realtime Reporter  
8       and Notary Public within and for the State of  
9       Ohio, duly commissioned and qualified, do hereby  
10      certify that the within-named witness, WILLIAM  
11      TELL, SR., was by me first duly sworn to testify  
12      the truth, the whole truth and nothing but the  
13      truth in the cause aforesaid; that the testimony  
14      then given by him was by me reduced to Stenotypy  
15      in the presence of said witness, afterwards  
16      prepared and produced by means of Computer-Aided  
17      Transcription and that the foregoing is a true  
18      and correct transcription of the testimony so  
19      given by him as aforesaid.

20             I do further certify that this deposition  
21      was taken at the time and place in the foregoing  
22      caption specified, and was completed without  
23      adjournment.

24             I do further certify that I am not a  
25      relative, employee of or attorney for any party  
26      or counsel, or otherwise financially interested  
27      in this action.

28             I do further certify that I am not, nor is  
29      the court reporting firm with which I am  
30      affiliated, under a contract as defined in Civil  
31      Rule 28(D).

32             IN WITNESS WHEREOF, I have hereunto set my  
33      hand and affixed my seal of office at Akron,  
34      Ohio on this 20th day of June, 2016.

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\_\_\_\_\_  
Binnie Purser Martino, RDR, CRR

My commission expires June 25, 2019.

- - -

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